

## EXAMPLE WELLHEAD PROTECTION ORDINANCES

The following wellhead protection (WHP) ordinances are good examples of local zoning ordinances which have been adopted by Wisconsin communities to control land uses within a delineated WHP area. Modifications have been made to the ordinances to reflect current terminology and the names of the communities have been changed. These ordinances were modified in February 2007 to be consistent with section 94.701, Wis. Stats., regarding regulation of pesticide use by local units of government. The new language is highlighted in red on pages 9, 17 and 19.

Most Wisconsin WHP ordinances, including the ones reproduced below, use a structure similar to the following.

### Purpose and authority

All four ordinances have similar purpose and authority sections. The first ordinance is for a town; the last three are for cities. Counties, cities, villages, and towns have authority to adopt ordinances to protect groundwater under ss. 59.69(1) and (4); 62.23(7)(a) and (c); 61.35 and 62.23(7)(a) and (c); and 60.61(1) and (2)(g) and 60.62, Wisconsin Statutes, respectively. The authority for towns is laid out in ch. 60, Wis. Stats., and varies depending on whether the county has adopted a zoning ordinance. Check with your attorney for the appropriate statutory authority.

### Applicability

This section indicates where the ordinance applies. It may be a general description within the community boundaries or it may specify the legal description for the area to be protected through the ordinance. It could reference a map.

### Definitions

Each ordinance normally includes definitions, although the specific terms defined may differ. The Department can assist with definitions if needed.

### Groundwater Protection Overlay District

This section describes the area to be protected and how the area can be used. This section may reference a map which is frequently attached to the ordinance. This section usually lists permitted and prohibited uses within the area to be protected. Often, the overlay district is subdivided into two or more zones where the permitted and prohibited uses may differ.

Either this section or another section should list the separation distances in NR 811.16(4)(d), Wis. Adm. Code, or at least reference those separation distances. Rule changes to ch. NR 811, Wis. Adm. Code, in 2000 and 2001 included changes to the facility or land use types listed in section NR 811.16(4)(d). That new language is underlined in section (3)(c)2-7 of the ordinance for the Town of Appealing. The separation distance language for the other example ordinances has also been modified to reflect the new NR 811.16(4)(d) changes.

### 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. This section could also be called Other Permitted Uses.

### Design and Operational Standards

Some ordinances also contain design standards, operational standards or both for activities within the overlay district. The last two ordinances (Charming and Delightful, Wisconsin) contain example language.

### Existing Facilities

Usually there is a section which contains requirements for existing facilities within the overlay district which may not conform to the permitted uses allowed by the ordinance. Some ordinances have more detailed requirements than others. This section could be called Non-conforming Uses or Requirements for Existing Facilities.

### Enforcement and Penalties

This section describes how the ordinance will be enforced. It may lay out specifics or reference an existing municipal code. The City of Delightful ordinance contains the most detailed enforcement section.

### Severability Clause

Most ordinances have a clause indicating that the entire ordinance is not invalid if a portion of it is determined to be invalid or unconstitutional.

### Effective Date

Ordinances normally identify the effective date.

A WHP ordinance could consist of one of the examples or parts of different ordinances to meet the needs of a particular community. Other language is possible besides that included in the examples.

For other ordinances besides the ones contained here, go to the U. S. Environmental Protection Agency Source Water Protection website at <http://cfpub.epa.gov/safewater/sourcewater>; scroll down the page and click on local ordinances. The site includes other Wisconsin ordinances. The ordinances are in Adobe Acrobat (.PDF) format.

Copies of the following four ordinances are available in paper format and as Word documents. They can also be printed from the Department of Natural Resources' wellhead protection website at ([dnr.wi.gov/org/water/dwg/gw/whp/whp\\_orda.pdf](http://dnr.wi.gov/org/water/dwg/gw/whp/whp_orda.pdf)). For more information, contact Dave Lindorff, Groundwater Section, Wisconsin DNR, P. O. Box 7921, Madison, WI 53707. Phone: 608-266-9265 or toll free at 877-268-9355. FAX: 608-267-7650. Email: [david.lindorff@wisconsin.gov](mailto:david.lindorff@wisconsin.gov)

**ORDINANCE TO CREATE S. 11.04, CODE OF ORDINANCES OF THE TOWN OF  
APPEALING, WISCONSIN AS IT RELATES TO WELLHEAD PROTECTION**

The Town Board of the Town of Appealing, Bountiful County, Wisconsin, does hereby ordain as follows:

SECTION I: S 11.04 of the **CODE OF ORDINANCES OF THE TOWN OF APPEALING** is hereby created to read as follows:

**11.04 WELLHEAD PROTECTION.**

**(1) CONSTRUCTION OF ORDINANCE**

(a) **TITLE** - This chapter shall be known, cited and referred to as the "Wellhead Protection Ordinance" (hereafter WHP ORDINANCE).

(b) **PURPOSE AND AUTHORITY**

1. The residents of the Town of Appealing (hereafter 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 is to institute land use regulations and restrictions to protect the Town municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the Town.

2. These regulations are established pursuant to the authority granted to towns by the Wisconsin Legislature in ss. 60.61(1), (2)(g), and 60.62, Wis. Stats., to adopt ordinances to protect groundwater [consult your attorney regarding appropriate statutory authority].

(c) **APPLICABILITY.** The regulations specified in the WHP ORDINANCE shall apply within the Town boundary limits.

**(2) DEFINITIONS**

(a) **EXISTING FACILITIES** - "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the Town's wellhead protection area that lies within the corporate limits of the Town. 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 [consult your attorney regarding incorporation by reference of Form 3300-215.]

(b) **GROUNDWATER DIVIDE** - "Groundwater divide" means a ridge in the water table or the potentiometric surface from which ground water flows away at right angles in both directions. A groundwater divide is represented by the line of highest hydraulic head in the water table or potentiometric surface.

(c) **GROUNDWATER PROTECTION OVERLAY DISTRICT** - "Groundwater protection overlay district" means that area described within the Town's wellhead protection plan. A copy of the Town's wellhead protection plan can be obtained from Jim Smith, Town Clerk.

(d) **RECHARGE AREA** - "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.

(e) TIME OF TRAVEL – “Time of travel” means the determined or estimated time required for a contaminant to move in the saturated zone from a specific point to a well.

(f) WELL FIELD – “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.

(3) **GROUNDWATER PROTECTION OVERLAY DISTRICT** (hereafter **DISTRICT**).

(a) **INTENT.** The area to be protected as a District is that portion of the Appealing well fields’ recharge areas extending to the groundwater divide contained within the Town boundary limits and shown on the attached map. These lands are subject to land use and development restrictions because of their close proximity to the well fields and the corresponding high threat of contamination.

(b) **PERMITTED USES.** Subject to the exemptions listed in section (3)(e), the following are the only permitted uses within the **DISTRICT**. Uses not listed are to be considered non-permitted uses.

1. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

2. Playgrounds.

3. Wildlife areas.

4. Non-motorized trails, such as biking, skiing, nature and fitness trails.

5. Municipally sewered residential development, free of flammable and combustible liquid underground storage tanks.

6. Municipally sewered business development zoned B-1, B-2, or B-3, except for the following uses:

a. Above ground storage tanks.

b. Asbestos product sales.

c. Automotive service and repair garages, body shops.

d. Blue printing and photocopying services.

e. Car washes.

f. Equipment repair services.

g. Laundromats and diaper services.

h. Dry cleaning.

i. Gas stations.

j. Holding ponds or lagoons.

k. Infiltration ponds.

l. Nurseries, lawn and garden supply stores.

m. Small engine repair services.

n. Underground storage tanks.

o. Wells, private, production, injection or other.

p. Any other use determined by the Town Zoning Administrator to be similar in nature to the above listed items.

7. Agricultural uses in accordance with the county soil conservation department’s best management practices guidelines.

(c) SEPARATION DISTANCES. The following separation distances as specified in s. NR 811.16(4)(d), Wis. Adm. Code, shall be maintained and shall not be exempted as listed in section (3)(e).

1. A separation distance of 500 feet as documented in the current wellhead protection plan shall be maintained around Wells 1, 2, and 3.

The following distances shall apply for Well #4 only:

2. Fifty feet between a well and a storm sewer main.

3. Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or a single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current AWWA C600 specifications. In no case may the separation distance between a well and a sanitary sewer main be less than 50 feet.

4. Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.

5. Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.

6. One thousand feet between a well and land application of municipal, commercial or industrial waste; the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718 while that facility is in operation; industrial, commercial or municipal wastewater lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil absorption units receiving 8,000 gallons per day or more.

7. 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; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards that is shown on the Department of Natural Resources' geographic information system registry of closed remediation sites; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities and pesticide or fertilizer handling or storage facilities.

(d) REQUIREMENTS FOR EXISTING FACILITIES

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 Town.

2. Existing facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Town, which may include but is not limited to stormwater runoff management and monitoring.

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

4. Existing facilities shall have the responsibility of devising and filing with the Town a contingency plan satisfactory to the Town for the immediate notification of Town officials in the event of an emergency.

(e) EXEMPTIONS AND WAIVERS

1. Individuals and/or facilities may request the Town in writing, to permit additional land uses in the District.

2. All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the Town and may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the Town and/or designee(s) for recommendation and final decision by the Town Board.

3. The individual/facility shall reimburse the Town for all consultant fees associated with this review at the invoiced amount plus administrative costs.

4. 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 Town.

(4) ENFORCEMENT

(a) In the event that an individual and/or facility causes the release of any contaminants which endanger the DISTRICT, the individual and/or facility causing said release shall immediately stop the release and clean up the release to the satisfaction of the Town.

(b) The individual/facility shall be responsible for all costs of cleanup, including all of the following:

1. Town consultant fees at the invoice amount plus administrative costs for oversight, review and documentation.

2. The cost of Town employees' time associated in any way with 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.

3. The cost of Town equipment employed.

4. 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/securities.

(d) Enforcement shall be provided pursuant to section 11.05 of the Code.

SECTION II. CONFLICT AND SEVERABILITY. Section 25.02 of the CODE OF ORDINANCES OF THE TOWN OF APPEALING applies to this ordinance.

SECTION III. EFFECTIVE DATE. This ordinance shall take effect upon passage and posting as provided by law.

**CITY OF BEAUTIFUL NO. 664**

**AN ORDINANCE CREATING WELLHEAD PROTECTION (WHP) BY  
ESTABLISHING LAND USE RESTRICTIONS WITHIN THE CITY OF BEAUTIFUL  
TO PROTECT THE CITY'S GROUNDWATER AQUIFER AND MUNICIPAL  
WATER SUPPLY**

The Common Council of the City of Beautiful, Bountiful County, Wisconsin do ordain as follows:

**SECTION 1. Title of Ordinance.** This Ordinance shall be known, cited and referred to as the "Wellhead Protection Ordinance" (hereinafter referred to as "WHP Ordinance".)

**SECTION 2. Purpose, Authority and Application.**

(1) Residents in the City of Beautiful 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 WHP Ordinance is to institute land use regulations and restrictions to protect the City's Municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the City of Beautiful.

(2) Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

(3) The regulations specified in this WHP Ordinance shall apply within the City's corporate limits.

**SECTION 3. Definitions.**

(1) Aquifer. "Aquifer" means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

(2) Existing facilities. "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the City's wellhead protection area that lies within the corporate limits of the City. 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 [consult your municipal attorney regarding incorporation by reference Form 3300-215.]

(3) Recharge Area. "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 extends beyond the corporate limits of the City of Beautiful.

(4) Groundwater Protection Overlay District. "Groundwater Protection Overlay District" means that portion of the recharge area for the city wells that lies within the city limits as shown in the map attached hereto as Exhibit "A" and incorporated herein as if fully set forth.

(5) Well Field. “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.

#### **SECTION 4. Groundwater Protection Overlay District.**

(1) Separation Distances. The following minimum separation distances shall be maintained within the Groundwater Protection Overlay District.

(a) Fifty feet between a well and storm sewer main.

(b) Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.

NOTE: Current AWWA C600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State’s office and the office of the Revisor of Statutes.

(c) Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.

(d) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.

(e) One thousand feet between a well and land application of municipal, commercial or industrial waste; boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718 while that facility is in operation; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.

(f) 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; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards that is shown on the Department of Natural Resources’ geographic information system registry of closed remediation sites; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

(2) Three Overlay District Zones. This District is hereby divided into Zone A, B, and C.

(a) Zone A. Identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contamination to the municipal wells. Zone A is more restrictive than Zones B or C.

(b) Permitted uses - Zone A. The following uses are permitted uses within the groundwater protection Zone A. Uses not listed shall be considered prohibited uses:



1. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
2. Playgrounds.
3. Wildlife areas.
4. Non-motorized trails, such as bike, skiing, nature and fitness trails.
5. Residential, commercial and industrial property, which is municipally sewered, and free of flammable and combustible liquid and underground storage tanks (USTs).

(c) Zone B. Identified as a secondary source of water for the municipal wells because of the large cone of depression and a greater time of travel. Zone B is less restrictive than Zone A, but more restrictive than Zone C.

(d) Permitted Uses - Zone B. The following uses are permitted uses within the groundwater protection Zone B. Uses not listed shall be considered prohibited uses:

1. All uses listed as permitted uses in Zone A.
2. ~~Modified agricultural activities, including any crop free of pesticides and/or synthetic fertilizers.~~
32. Above-ground petroleum product storage tanks less than 660 gallons. All new or replaced tanks shall be installed in compliance with ch. Comm 10, Wis. Adm. Code.
43. Residential, commercial and industrial property which is municipally sewered or has a state-approved sewer and septic system.

(e) Zone C. Identified as the Groundwater Protection Overlay District, excluding those areas within Zone A and Zone B.

(f) Permitted Uses - Zone C. All uses listed as permitted in Zone A and Zone B. Individuals and/or facilities may make a request to the Utilities Commission to permit additional land uses in Zone C.

(g) Mapping. The location and boundaries of the zoning districts established by this Ordinance are set forth on the attached Exhibit "A" which is incorporated herein and hereby made a part of this Ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

## **SECTION 5. Review of Permit Application.**

(1) The City of Beautiful Utilities Commission shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District. All determinations shall be made by the City of Beautiful Utilities Commission within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by the City of Beautiful Utilities Commission for "good cause", as determined in the sole and absolute discretion of the City of Beautiful Utilities Commission.

(2) Upon reviewing all requests for approval, the City of Beautiful Utilities Commission shall consider all of the following factors:

- (a) The City'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

seriously threaten or degrade groundwater quality in the City of Beautiful or the City'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 City's groundwater public water wells 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.

(3) Any exemptions granted will be made conditional and may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The City of Beautiful Utilities Commission may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.

(4) The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:

(a) The cost of an environmental impact study if so required by the City of Beautiful or its designee.

(b) The cost of groundwater monitoring or groundwater wells if required by the City of Beautiful or its designee.

(c) The costs of an appraisal for the property or other property evaluation expense if required by the City of Beautiful or its designee.

(d) The costs of City's employee's time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the City, representing the City's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.

(e) The cost of City equipment employed.

(f) The cost of mileage reimbursed to the City employees.

## **SECTION 6. Requirements for Existing Facilities and Land Uses.**

(1) Existing facilities shall provide copies of all Federal, State and local facility operation approvals or certificates and ongoing environmental monitoring results to the City of Beautiful.

(2) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the City of Beautiful Utilities Commission, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.

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

(4) Existing facilities shall have the responsibility of divising and/or filing with the City of Beautiful, a contingency plan satisfactory to the Utility Commission for the immediate notification of the appropriate City of Beautiful officers in the event of an emergency.

(5) Property owners with an existing agricultural use shall be exempt from requirements of this Ordinance as they relate to restrictions on agricultural uses, provided however, that such exemption shall only apply to the property owners in existence at the time of passage of the Ordinance and this exemption shall not constitute a covenant running with the land.

#### **SECTION 7. Enforcement and penalties.**

(1) In the event an individual and/or facility causes the release of any contaminants which endanger the Groundwater Protection Overlay District, the individual/facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the City of Beautiful.

(2) The individual/facility shall be responsible for all costs of cleanup and the City of Beautiful consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:

(a) The cost of City employees' time associated in any way with the clean-up based on the hourly rate paid to the employee multiplied by a factor determined by the City, representing the City's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

(b) The cost of City equipment employed.

(c) The cost of mileage reimbursed to the City employees attributed to the clean-up.

(3) Following any such discharge, the City may require additional test monitoring or other requirements as outlined in Section 6 and 7 herein.

(4) 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.

(5) 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 and 00/100 Dollars (\$100.00) nor more than Five Hundred and 00/100 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 8. Severability Clause.** 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 effect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Common Council of the City of Beautiful hereby declares that they would have passed this Ordinance and each section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

**SECTION 9.** All Ordinances in conflict with the foregoing are hereby repealed or amended to read consistent with this Ordinance.

**SECTION 10.** This Ordinance shall take effect upon passage and publication as provided by law.  
Passed: January 7, 1997.  
Published January 22, 1997

**ORDINANCE AMENDING THE REVISED MUNICIPAL CODE  
OF THE CITY OF CHARMING, WISCONSIN**

ZONING CODE

SEC. 23.02

23.02(4)(e) Wellhead Protection Overlay District

**1.0 PURPOSE AND AUTHORITY**

The residents of the City of Charming 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 Wellhead Protection Ordinance is to institute land use regulations and restrictions to protect the City's municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the City of Charming.

Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

**1.1 APPLICATION OF REGULATIONS**

The regulations specified in this Wellhead Protection Ordinance shall apply only to lands within 1,500 feet of the Charming municipal wells (Cones of Depression) or within the five year Time of Travel (TOT) of these wells and which also lie within the City of Charming corporate limits.

**1.2 DEFINITIONS**

(1) **AQUIFER.** "Aquifer" means a saturated, permeable geologic formation that contains and will yield significant quantities of water.

(2) **CONE OF DEPRESSION.** "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. The Wisconsin Geological and Natural History Survey identified the Cone of Depression to be a radius of 1,422 feet. For ease of determination, the Cone of Depression or Groundwater Protection Overlay District A has been established as being 1,500 feet from the Charming wells.

(3) **FIVE YEAR TIME OF TRAVEL (TOT).** "Five year time of travel" means the recharge area upgradient of the cone of depression, 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 the Charming well fields is established based on flow path modeling contained in the report entitled "CHARMING WISCONSIN CASE STUDY: Wellhead Protection Programs and Monitoring System Design".

NOTE: The report "CHARMING WISCONSIN CASE STUDY: Wellhead Protection Programs and Monitoring System Design" is available from the City Clerk.

(4) **RECHARGE AREA.** "Recharge area" means the 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.

(5) **WELL FIELD.** "Well field" means a piece of land used primarily for the purpose of locating wells to

supply a municipal water system.

## 2.0 GROUNDWATER PROTECTION OVERLAY DISTRICT A - CONES OF DEPRESSION

2.1 INTENT. The primary portion of the Charming recharge area to be protected is the land within 1,500 feet of the Charming wells, known as Wells 4, 5, 6, 7, 8, 9 and 10, as shown on the attached map. These lands are subject to the most stringent land use and development restrictions because of close proximity to the wells and the corresponding high threat of contamination.

2.2 PERMITTED USES. The following uses are permitted uses within Groundwater Protection Overlay District A. Uses not listed here or in section 2.3 below are to be considered prohibited uses.

- (1) Parks and playgrounds, provided there are no on-site waste disposal or fuel storage tank facilities
- (2) Wildlife areas
- (3) Nonmotorized trails, such as biking, skiing, nature and fitness trails
- (4) Sewered residential developments subject to conditions in Section 3.3
- (5) Unsewered (single family) residential development only on existing lots of record on the effective date of this Ordinance and subject to conditions in Section 3.3

2.3 CONDITIONAL USES. The following uses are conditional uses within Groundwater Protection Overlay District A. Uses not listed here or in 2.2 above are to be considered prohibited uses.

- (1) Commercial uses served by municipal sanitary sewer except those listed as prohibited in Section 2.4

2.4 PROHIBITED USES. The following uses are prohibited uses within the Groundwater Protection Overlay District A. 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 shall not be considered permitted uses.

- (1) Underground storage tanks of any size
- (2) Septage and/or sludge spreading
- (3) Animal waste landspreading
- (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) Any manufacturing or industrial businesses
- (10) Bus or truck terminals
- (11) Repair shops
- (12) Landfills or waste disposal facilities
- (13) Wastewater treatment facilities
- (14) Spray wastewater facilities
- (15) Junk yards or auto salvage yards
- (16) Bulk fertilizer and/or pesticide facilities
- (17) Asphalt products manufacturing
- (18) Dry cleaning businesses
- (19) Salt storage
- (20) Electroplating facilities
- (21) Exterminating businesses
- (22) Paint and coating manufacturing
- (23) Hazardous and/or toxic materials storage

- (24) Hazardous and/or toxic waste facilities
- (25) Radioactive waste facilities
- (26) Recycling facilities
- (27) Cemeteries

2.5 Where any of the uses listed in 2.4 above exist within Groundwater Protection Overlay District A on the effective date of this ordinance, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission and Common Council, and appropriate permit issued by the City Inspection Department, prior to any work being initiated. Expansion of the prohibited use will not be allowed.

### 3.0 GROUNDWATER PROTECTION OVERLAY DISTRICT B - 5 YEAR TIME OF TRAVEL

3.1 INTENT. A secondary portion of the Charming recharge area to be protected is land which lies within the five year groundwater travel zone upgradient from the Charming well field. The five year time of travel (TOT) for the Charming well field is shown on the attached map and described as:

That part of Section 1, Township 23 North, Range 8 East, that part of Sections 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, Township 24 North, Range 8 East, Town of Hull, that part of Section 34, Township 24 North, Range 8 East, Village of Park Ridge, that part of Section 2, Township 23 North, Range 8 East, Town of Plover, that part of Sections 7 and 18, Township 24 North, Range 9 East, Town of Sharon, that part of Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, Township 24 North, Range 8 East and that part of Section 2, Township 23 North, Range 8 East, City of Charming, that part of Sections 19 and 30, Township 24 North, Range 9 East, Town of Stockton, Bountiful County, Wisconsin, described as follows:

Beginning at the southwest corner of said Section 34, Township 24 North, Range 8 East; thence north along the west line of said Sections 34, 27, 22, 15, and 10 to the east-west quarter line of said Section 10; thence east along said quarter line to the west line of the East One-half of the Northwest Quarter of said Section 10; thence north along said west line and the west line of the East One-half of the Southwest Quarter of Section 3, Township 24 North, Range 8 East to the north line of the South One-half of the Southwest Quarter of said Section 3; thence east along said north line and the north line of the South One-half of the Southeast Quarter of said Section 3 and the north line of the South One-half of the Southwest Quarter and the Southeast Quarter of Section 2 to the west line of Section 1, Township 24 North, Range 8 East; thence south along said west line to its southwest corner; thence east along the south line of said Section 1 to its southeast corner which is on the Range line between Range 8 East and Range 9 East; thence south along said Range line to the east-west quarter line of Section 7, Township 24 North, Range 9 East; thence east along said quarter line to the northeast corner of Government Lot 18 in said Section 7; thence south along the east line of said Government Lot 18 and the east line of Government Lot 19 in said Section to the north line of Section 18, Township 24 North, Range 9 East; thence east along said north line to the northeast corner of Government Lot 5 in said Section 18; thence south along the east line of said Government Lot 5 and the east line of Government Lots 8, 17, and 20 of said Section 18 and the east line of Government Lots 5, 8, 17, and 20 of Section 19, Township 24 North, Range 9 East and the east line of Government Lot 5 of Section 30, Township 24 North, Range 9 East, to the southeast corner of said Government Lot 5 of said Section 30; thence west along the south line of said Government Lot 5 and the south line of Government Lot 6 of said Section 30 to the Range line between Range 8 East and Range 9 East; thence south along said Range line to the southeast corner of Section 36, Township 24 North, Range 8 East; thence south along the east line of Section 1, Township 23 North, Range 8 East to the north line of the South One-half of the Northeast Quarter of said Section 1; thence west along said north line and the north line of the South One-half of the Northwest Quarter of said Section 1 and the north line of the South One-half of the Northeast Quarter and the Northwest Quarter of Section 2, Township 23 North, Range 8

East to the west line of said Section 2; thence north along said west line to the south line of Section 35, Township 24 North, Range 8 East; thence west along said south line and the south line of Section 34 to the point of beginning and there terminating.

Land use restrictions within Groundwater Protection Overlay District B are less restrictive than in Overlay District A because of longer flow times and a greater potential for remediation, dilution and attenuation. Uses not listed as permitted or conditional uses shall be considered prohibited uses.

3.2 PERMITTED USES. The following uses are permitted within Groundwater Protection Overlay District B.

- (1) All uses listed as permitted uses in Groundwater Protection Overlay District A
- (2) Sewered residential uses
- (3) Above ground petroleum product storage tanks up to 660 gallons
- (4) Basement heating fuel storage tanks
- (5) Commercial and/or industrial uses served by municipal sanitary sewer, except those listed as prohibited uses in Section 3.5, Prohibited Uses
- (6) Unsewered (single family) residential uses

3.3 DESIGN STANDARDS. The following standards and requirements shall apply to all uses permitted within Groundwater Protection Overlay District B.

- (1) Minimum lot size for unsewered residential uses shall be two acres, except for; a) existing lots of record on the effective date of this Ordinance and b) developments which will be served by municipal sewer within five years of the approval of the development. In order to provide for efficiently serving these developments with municipal sewer, lots smaller than two acres can be approved, provided that sufficient land area will be maintained in an undeveloped state such that no more than one residence is allowed for each two acres of the overall development.
- (2) All commercial and industrial uses are allowed a maximum of 50% of the lot area to be maintained in manicured lawn or grass. However, the area of the lot in manicured lawn or grass shall not exceed the area of impervious surfaces on the lot.
- (3) Sewered residential uses are allowed to have a maximum area of manicured lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area (square feet)</u>
16,000 sq. ft.	6,000
½ acre	8,000
¾ acre	11,000
1 acre	14,000
1½ acres	20,000
2 acres	26,000

Maximum lawn areas for lot sizes not listed shall be based on the average percentage of lawn area allowed on the two nearest lot sizes listed.

- (4) Unsewered residential uses are allowed to have a maximum area of manicured lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area (square feet)</u>
-----------------	--------------------------------



2 acres	8,000
3 acres	21,000
4 acres	31,000
5 acres	44,000

Maximum lawn areas for lot sizes not listed shall be based on a weighted average of the percentage of lawn area allowed on the two nearest lot sizes listed.

(5) Natural vegetative covers, not requiring the use of pesticides or fertilizers after initial establishment are encouraged as an alternative to manicured lawn or grass.

(6) All petroleum storage tanks shall provide leak proof containment not less than 125% of the tank volume, except basement heating fuel storage tanks.

(7) All storm drainage shall be retained on site or discharged to a municipally operated storm drain. If retained on site, storm water shall be discharged to settling ponds where it will percolate through at least six inches of topsoil. Use of drywells or other subsurface drains for stormwater drainage is prohibited.

(8) Pesticide and fertilizer storage is permitted at the location of retail sales of these products, provided that the products are delivered in retail quantity containers. ~~and no repackaging and/or mixing is done on site.~~

(9) Pesticide and fertilizer storage is permitted at the location of agricultural use of these products.

3.4 CONDITIONAL USES. Notwithstanding the provision in section 3.6 below, the following uses may be permitted on a case-by-case basis, providing adequate groundwater protection and monitoring measures, as determined by the Charming Plan Commission and Common Council, are instituted.

- (1) Nurseries for ornamental plants, green houses, and associated retail sales outlets.
- (2) Pesticide and fertilizer storage and use associated with uses in (1) above.
- (3) Vehicle repair shops, auto body repair shops.
- (4) Cemeteries.
- (5) Salt storage, including sand/salt combinations.
- (6) Recycling facilities.

3.5 PROHIBITED USES. The following uses are prohibited uses within Groundwater Protection Overlay District B except as provided in 3.2 or 3.4 above. 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 shall not be considered permitted uses unless specifically listed above under Section 3.2 Permitted Uses.

- (1) Underground storage tanks of any size
- (2) Unsewered commercial and/or industrial development
- (3) Septage and/or sludge spreading
- (4) Animal waste facilities
- (5) Animal confinement facilities (except veterinary hospitals and clinics)
- (6) Gas stations and oil change businesses
- (7) Printing and duplicating businesses which use hazardous chemicals as defined by the EPA in their printing process
- (8) Bus or truck terminals
- (9) Landfills
- (10) Wastewater treatment facilities

- (11) Spray wastewater facilities
- (12) Auto salvage yards
- (13) Bulk fertilizer and/or pesticide facilities
- (14) Asphalt products manufacturing
- (15) Dry cleaning facilities
- (16) Electroplating facilities
- (17) Exterminating shops
- (18) Paint and coating manufacturing
- (19) Hazardous and/or toxic materials storage
- (20) Hazardous and/or toxic waste facilities
- (21) Radioactive waste facilities
- (22) Garage and vehicular towing
- (23) Public and municipal maintenance garages

3.6 Where any of the uses listed in 3.5 above exist within Groundwater Protection Overlay District B on the effective date of this ordinance, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission and Common Council, and appropriate permit issued by the City Inspection Department, prior to any work being initiated. Expansion of the prohibited use will not be allowed.

## CHAPTER 29 WELLHEAD PROTECTION

### DELIGHTFUL, WISCONSIN

#### 29.01 PURPOSE AND AUTHORITY.

- (1) **PURPOSE.** The residents of the City of Delightful 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 Wellhead Protection Ordinance is to institute land use regulations and restrictions protecting the municipal water supply of the City of Delightful and to promote the public health, safety and general welfare of the City's residents.
- (2) **AUTHORITY.** Statutory authority of the City 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) and §62.23(7)(c), Wis. Stats., to the statutory authorization for county and municipal planning and zoning to protect the public health, safety and welfare. In addition, under §62.23(7)(c), Wis. Stats., the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

#### 29.02 APPLICATION OF REGULATIONS.

The regulations specified in this Wellhead Protection Ordinance shall apply to the incorporated areas of Delightful that lie within the recharge areas for municipal water supply wells as defined in section 29.05, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this ordinance and the zoning ordinance, the more restrictive provision shall apply.

#### 29.03 DEFINITIONS.

- (1) **Aquifer.** A saturated, permeable geologic formation that contains and will yield significant quantities of water.
- (2) **Provisional Use.** Land use or development that either by design or operation requires additional technical or regulatory review and permitting in order to exist within defined areas of a wellhead protection district.
- (3) **Cone of depression.** 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.
- (4) **Design Standards.** Regulations that apply to the development of structures and infrastructure within a designated wellhead protection district.
- (5) **Five-year time of travel.** The 5-year time of travel is the recharge area upgradient of the cone of depression, the outer boundary from which it is determined or estimated that groundwater will take five years to reach a pumping well.
- (6) **Municipal water supply.** The municipal water supply of the City of Delightful.
- (7) **Operating Standards.** Regulations that apply to land use activities/business practices within a designated wellhead protection district.
- (8) **Permitted Use.** Land use or development that by design or operation is allowed without further technical or regulatory review within defined areas of a wellhead protection district.
- (9) **Person.** Person means an individual, partnership, association, corporation, municipality or state agency, or other legal entity.
- (10) **Recharge area.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (11) **Regulated Substances.** Chemicals and chemical mixtures that are health hazards **except for products registered as pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).** Health hazards for chemicals and chemical mixtures are typically identified on

Material Safety Data Sheets (MSDS) available from the substance manufacturer or supplier. Substances packaged for consumption for humans or animals are not considered regulated substances. Regulated substances 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 Groundwater 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 non-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).
- (12) Thirty-day time of travel. The 30-day time of travel is the recharge area upgradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take thirty days to reach a pumping well.
  - (13) Well field. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
  - (14) Zone of saturation. The saturated zone is the area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

#### 29.04 GROUNDWATER TECHNICAL REVIEW COMMITTEE.

- (1) The Delightful Groundwater Technical Review Committee shall consist of:
  - (a) Voting Members:
    - 1. The City Planner, acting as committee chair.
    - 2. The City Engineer/Director of Public Works.
    - 3. The Superintendent/Manager of Public Utilities.
    - 4. The City Inspector.
  - (b) Advisory Committee:
    - 1. The Wondrous County Liaison as appointed by the County Board Chairperson.
    - 2. A local representative from the Department of Natural Resources with expertise in groundwater or groundwater contamination issues appointed by the Department.
    - 3. One member as appointed by the Board of Public Works, who has at least one of the following qualifications:
      - a. Is a hydrogeologist, hydrologist or a professional engineer with a background in groundwater; or
      - b. Is a certified groundwater professional.
- (2) The purpose of the Delightful Groundwater Technical Review Committee is to provide objective and scientific technical review of requests for provisional use permits and to make

recommendations to the Board of Public Works to grant or deny provisional use permits based upon the facts discovered during review, to make recommendations on any and all provisions placed on a provisional use permit, and to give advice on matters concerning groundwater.

- (3) The Delightful Groundwater Technical Review Committee may retain a consultant to assist in the review of requests for provisional use permits. Any costs incurred as part of the provisional use permit application review shall be reimbursed by the applicant.

29.05 GROUNDWATER PROTECTION OVERLAY DISTRICT.

A Groundwater Protection Overlay District may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

29.06 SUPREMACY OF THIS DISTRICT.

The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Groundwater Protection Overlay District are more stringent.

29.07 ZONES.

The Groundwater Protection Overlay District is divided into Zone 1 and Zone 2 as follows:

- (1) ZONE 1 OF GROUNDWATER PROTECTION OVERLAY DISTRICT. Zone 1 is the area of land which contributes water to the well in question, out to a 30-day time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.
- (2) ZONE 2 OF THE GROUNDWATER PROTECTION OVERLAY DISTRICT. Zone 2 encompasses the area of land which contributes water to the well starting at the line which delineates the 30-day time of travel and ends at the line delineating the 5-year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.

29.08 GROUNDWATER PROTECTION OVERLAY DISTRICTS BOUNDARIES.

- (1) The boundaries of the Groundwater Protection Overlay Districts shall be shown on the Delightful zoning map. The locations and boundaries of the zoning districts established by this ordinance are set forth on Figure 1, "City of Delightful - East Well Field Wellhead Protection Area" and Figure 2, "City of Delightful - West Well Field Wellhead Protection Area" incorporated herein and hereby made a part of this ordinance. Said figures, together with everything shown thereon and all amendments thereto, shall be as much a part of this ordinance as though fully set forth and described herein.
- (2) The wellhead protection zones for the East Well Field are delineated on Figure 1 and described as follows:
  - (a) Zone 1:

Government Lots 3 and Lot 4 and the north half of the SW 1/4, except the north 1000 feet thereof, all in Section 33, Township 29 North, Range 8 West.  
That part of the NE 1/4 of the SE 1/4 of Section 32, lying easterly of the Union Pacific Railroad except the north 1000 feet thereof and that part of the SE 1/4 of the SE 1/4,

Section 32 all in Township 29 North, Range 8 West, lying easterly of a line described as beginning at the northwest corner of Lot 1, Earthwood Village; thence Southerly to the northwest corner of Lot 5, Earthwood Village; thence Southerly, to the southwest corner of said Lot 5; thence Southerly to the northwest corner of Lot 8, Earthwood Village; thence Southerly, to the southwest corner of said Lot 8; thence Southerly to the northwest corner of Lot 3, Anderson's Acres; thence Southerly along the west line of said Lot 3 and its southerly extension to the south line of said SE 1/4 of the SE 1/4 and said line there terminating.

(b) Zone 2:

The south half of the NW 1/4 and all of the SW 1/4 of Section 27, Township 29 North, Range 8 West lying west of Lake Pleasant.

All of Section 28, Township 29 North, Range 8 West except the NE 1/4 of the NE 1/4 thereof.

The SE 1/4 of the NE 1/4 and the east half of the SE 1/4 which lies east of the Union Pacific Railroad all in Section 29, Township 29 North, Range 8 West.

That part of the east half of the NE 1/4 which lies east of the Union Pacific Railroad and the north 1000 feet of the NE 1/4 of the SE 1/4 which lies east of the Union Pacific Railroad all in Section 32, Township 29 North, Range 8 West.

The north half of Section 33, Township 29 North, Range 8 West except the SE 1/4 of the NE 1/4 thereof and the north 1000 feet of the north half of the SW 1/4 of said Section 33. The NW 1/4 of the NW 1/4 of Section 34, Township 29 North, Range 8 West lying west of Lake Pleasant

(3) The wellhead protection zones for the West Well Field are delineated on Figure 2 and described as follows:

(a) Zone 1:

The SW 1/4 of Section 12, Township 28 North, Range 9 West.

(b) Zone 2:

That part of the City of Delightful which now lies within, and all future annexations lying within the south one half of the SW 1/4 of Section 1, Township 28 North, Range 9 West. The NW 1/4 of Section 12 and all that part of the SE 1/4 of said Section 12, lying southerly of a line described as beginning at the northwest corner of said SE 1/4; thence Southeasterly to the northeast corner of the south half of said SE 1/4; all in Township 28 North, Range 9 West.

All of Section 13, Township 28 North, Range 9 West which lies northwesterly of STH 124 and easterly of USH 53.

All that part of Section 18, Township 28 North, Range 8 West which lies northwesterly of STH 124.

## 29.09 PERMITTED USES.

(1) The following permitted uses in Zone 1 are subject to the separation distance requirements (section 29.10), prohibited uses (section 29.11), and applicable design and operational standards (section 29.14):

(a) Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.

(b) Wildlife and natural and woodland areas.

(c) Biking, hiking, skiing, nature, equestrian and fitness trails.

(d) Municipally sewerred residential development.

(e) 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.

- (2) The following permitted uses in Zone 2 are subject to the separation distance requirements (section 29.10), prohibited uses (section 29.11), and applicable design and operational standards (section 29.14):
  - (a) All of the uses permitted in Zone 1.
  - (b) Public parks, playgrounds and beaches, provided onsite wastewater shall be discharged to a holding tank or municipal sewer.
  - (c) Single-family residences on a minimum lot of 40,000 square feet with a private on-site sewage treatment system receiving less than 8,000 gallons per day, which meets the County and State health standards for the effluent, and is in conformance with COMM 83, Wis. Adm. Code.
  - (d) Residential use of above ground LP gas tanks for heating, not to exceed 1,000 gallons.
  - (e) Commercial and industrial establishments that are municipally sewered and whose aggregate use, storage, handling and/or production of Regulated Substances does not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.
  - (f) A limited exclusion from the provision of Section 29.09(2)(d) is authorized for non-routine maintenance or repair of property or equipment. The aggregate of Regulated Substances in use, storage, handling, and/or production may not exceed fifty (50) gallons or four hundred (400) pounds at any time.
  - (g) A limited exclusion from the provisions of Section 29.09(2)(d) is authorized for each medical and research laboratory use, provided however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.
  - (g) A limited exclusion from the provisions of Section 29.09(2)(d) is authorized for Regulated Substances which are cleaning agents, provided such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. Citrus based, biodegradable cleaners are not considered a regulated substance. In no case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

#### 29.10 SEPARATION DISTANCE REQUIREMENTS.

- (1) The following separation distances as specified in NR 811.16, Wis. Adm. Code, shall be maintained:
  - (a) Fifty feet between a well and storm sewer main.
  - (b) Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.
  - (c) Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
  - (d) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.
  - (e) One thousand feet between a well and land application of municipal, commercial or industrial waste; boundaries of a landspreading facility for spreading of petroleum-

contaminated soil regulated under ch. NR 718 while that facility is in operation; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.

- (f) 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; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards that is shown on the Department of Natural Resources' geographic information system registry of closed remediation sites; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

#### 29.11 PROHIBITED USES.

(1) The following uses are prohibited in Zones 1 and 2:

- (a) Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40CFR Part 370.)
- (b) Cemeteries.
- (c) Chemical manufacturers (Standard Industrial Classification Major Group 28).
- (d) Coal storage.
- (e) Dry cleaners.
- (f) Industrial lagoons and pits.
- (g) Landfills and any other solid waste facility, except post-consumer recycling.
- (h) Manure and animal waste storage except animal waste storage facilities regulated by the County.
- (i) All mining including sand and gravel pits.
- (j) Pesticide and fertilizer dealer, transfer or storage facilities.
- (k) Railroad yards and maintenance stations.
- (l) Rendering plants and slaughterhouses.
- (m) Salt or deicing material storage.
- (n) Salvage or junk yards.
- (o) Septage or sludge spreading, storage or treatment.
- (p) Septage, wastewater, or sewage lagoons.
- (q) Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
- (r) Stockyards and feedlots.
- (s) Stormwater infiltration basins without pre-treatment, including vegetative filtration and/or temporary detention.
- (t) Motor vehicle services, including filling and service stations, repair, renovation and body working.
- (u) Wood preserving operations.

(2) In Zone 1, the provisional uses of section 29.13(2) are prohibited.

#### 29.12 CLASSIFICATION OF USE.

- (1) Classification of a use as being permitted, prohibited or provisional shall be determined by an application submitted to the City Inspector. The application shall be in writing and shall describe in detail the use, activities and structures proposed along with the quantities, use of, storage and handling of all regulated substances. A scaled site map showing all building and structure footprints, driveways, loading docks, sidewalks, parking lots, storage yards and any other information deemed necessary for determination. In case of question as to the



classification of a proposed use, the application shall be forwarded to the Groundwater Technical Review Committee for determination in accordance with the following procedure:

- (a) Application: The above described application shall be submitted to the City Inspector. The application will be then forwarded to the Groundwater Technical Review Committee, by the committee chair. The Groundwater Technical Review Committee may request additional information as deemed necessary to facilitate a determination.
- (b) Investigation: The Groundwater Technical Review Committee shall make or have made such investigation in order to compare the nature and characteristics of the proposed use with those that are permitted, provisional or prohibited.
- (c) Determination: The Groundwater Technical Review Committee shall determine the use as being permitted, prohibited or provisional. The determination of the Groundwater Technical Review Committee shall be rendered in writing within 60 days from receiving all requested information and shall include findings supporting the conclusion.

### 29.13 PROVISIONAL USE PERMITS.

- (1) Any person may request a provisional use permit for certain uses, activities and structures within Zone 2 of the Groundwater Protection Overlay District not prohibited in section 29.11.
- (2) Use, storage handling or production processing of Regulated Substances in excess of quantities outlined in Section 29.09(2)(d-g) may be provisionally allowed in Zone 2 of the Groundwater Protection Overlay District.
- (3) All requests for a provisional use permit shall be submitted in writing to the Delightful City Inspector for a review of permit application materials. The request will then, if properly prepared, be forwarded to the City Planner, as the Chairperson of the Groundwater Technical Review Committee, for inclusion on the agenda of the next Board of Public Works meeting. The Provisional Use Permit Application shall include:
  - (a) A site plan map set showing all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours. The plan set should also include: building plans (must include floor plans of typical floors and denote all entrances, exits, loading docks, building service areas, etc.), storage areas for Regulated Substances, grading plans showing existing and proposed grades and contours, proposed surface water drainage patterns, catch basin and storm sewer locations, connections to existing utilities and a construction site erosion control plan. The site plan set shall be developed in accordance with the Design Standards established for the Wellhead Protection Overlay District as defined in Section 29.14.
  - (b) An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed. The operational plan shall be developed in accordance with the Operational Standards established for the Wellhead Protection Overlay District as defined in Section 29.14.
  - (c) 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.
  - (d) An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring as required.
  - (e) 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.
- (4) The person making the request shall reimburse the City for consultant fees and technical review committee expenses associated with this review at the invoiced amount, plus administrative costs.

- (5) All provisional use permits granted shall be subject to provisions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These provisions shall include, but not be limited to:
  - (a) Provide current copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the City.
  - (b) Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
  - (c) Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
  - (d) Prepare, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to the City.
- (6) The Delightful Board of Public Works shall decide upon a request for a provisional use permit only after full consideration of the recommendations made by the Delightful Groundwater Technical Review Committee. Any provisions above and beyond those specified in Provisional Uses, subsection (5) herein, that are recommended by the Delightful Groundwater Technical Review Committee may be applied to the granting of the provisional use permit by the Board of Public Works.
- (7) The Provisional Use Permit will become effective only after any costs incurred during the Provisional Use Permit application review are satisfied by the applicant.
- (8) Provisional use permits are non-transferable. In a case of business or property transfer, the new owner is responsible for applying for a new provisional use permit subject to subs. 1-7 of this Section.

#### 29.14 DESIGN AND OPERATIONAL STANDARDS

- (1) The following Design Standards apply to permitted land use activities within the Wellhead Protection District:
  - (a) All parking lots exceeding eight (8) stalls, all sump pumps and all roof drains shall be connected to a storm sewer lateral or other apparatus. Use of drywells or other subsurface drains is prohibited.
  - (b) No more than seventy percent (70%) of a lot shall be covered by impervious surfaces such as buildings or parking lots.
  - (c) All parking lots shall be paved with asphalt or concrete.
  - (d) All stormwater conveyance shall be via a swale lined with an appropriate impervious material or a watertight storm sewer pipe.
  - (e) All storm water retention/infiltration ponds shall, at a minimum, use a fore bay design intended to maximize natural filtration. The fore bay designs shall include spill containment measures, initial and secondary detainment weirs and/or outfall control valves.
  - (f) Stormwater and sanitary sewer mains must meet separation distance requirements as defined in 29.10.
  - (g) Sanitary sewer mains must be pressure tested in place to meet current State of Wisconsin Department of Administration Division of Facilities Development Master Specifications and applicable local or project specific specifications.
- (2) The following Design Standards apply to Provisional Use activities within Zone 2 of the Wellhead Protection District:
  - (a) All design standards listed in 29.14(1).
  - (b) Facilities that handle Regulated Substances shall have a minimum of one loading/unloading area designated for the handling of Regulated Substances. The designated loading/unloading area shall be designed with spill and/or runoff containment

- that is connected to a municipal sanitary sewer lateral. The loading/unloading area shall be designed to minimize precipitation or stormwater run on from entering the sanitary sewer. Regulated Substances may be loaded/unloaded only in a designated handling area.
- (c) Storage areas for Regulated Substances shall be designed with secondary containment capable of controlling one hundred twenty five (125%) of the maximum design capacity of the liquid storage area.
  - (d) Facilities involved in the handling of Regulated Substances will, when determined necessary by the Committee, prepare a groundwater monitoring plan.
  - (e) All rail spurs used to transport Regulated Substances shall be designed to minimize infiltration and convey runoff to a stormwater conveyance system. Rail car loading/unloading areas used to handle Regulated Substances shall be designed with spill and/or runoff containment that is connected to a municipal sewer lateral. The loading/unloading area shall be designed to minimize precipitation or stormwater run on from entering the sanitary sewer.
- (3) The following Operational Standards apply to permitted land use activities within the Wellhead Protection District:
- (a) No outdoor storage of product, material, or equipment other than that approved through the provisional use permitting process shall be allowed. Any designated outdoor storage area shall be an impervious surface paved with concrete or asphalt and have secondary containment when applicable.
  - (b) Regulated Substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the Groundwater Protection Overlay District, provided such Regulated Substances are present at the construction site for which the permits have been issued and do not pose a real and present danger of contaminating surface and/or groundwater. For the onsite storage of fuel for vehicles or other equipment, which may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Regulated Substances not used in the construction process and all wastes generated during construction shall be removed from the construction site not later than at the time of the completion of the construction. If construction activity has ceased for 30 days, all Regulated Substances shall be removed from the site until such time as the construction activity is to resume.
  - (c) The use of deicing salt or other chemical deicing materials shall be minimized and used only when threats to safety occur.
- (4) The following Operational Standards apply to Provisional Use activities within Zone 2 of the Wellhead Protection District:
- (a) All Operational Standards listed in 29.14(3).
  - (b) Except in the case of seasonal discontinuation of operation, the owner or operator of any non-residential property that becomes unoccupied or has discontinued operation for a period of 30 consecutive days shall remove all Regulated Substances from the property, except those approved to be exclusively used for heating, cooling, and providing electrical lighting for the premises, within 30 days after the date upon which the property initially became unoccupied or the operation discontinued. The owner or operator shall secure the Regulated Substances on the property until they have been removed. The owner or operator shall notify the City of Delightful Building Inspector in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address and the operator's name, phone number, and forwarding address.
  - (c) Truck, truck trailer, rail car, or tank truck loading and unloading procedures for Regulated Substances shall meet the minimum requirements of the U.S. Department of Transportation (DOT) and Wisconsin DOT.

- (d) No truck, trailer, rail car, or tank truck shall be used for onsite storage of Regulated Substances. Regulated Substances shall be transferred from the delivery vehicle to the Regulated Substance storage area as soon as feasibly possible.
- (e) Loading and unloading procedures for Regulated Substances shall occur in designated loading/unloading areas. Warning signs and chock blocks shall be provided in the loading and unloading area to prevent premature vehicular departure.
- (f) Daily visual inspections of Regulated Substances shall be conducted to check for container damage or leakage, stained or discolored storage surfaces in all storage areas, excessive accumulation of water in outdoor curbed areas, and to ensure that dike drain valves are securely closed in outdoor curbed areas.
- (g) Storage areas for Regulated Substances shall have access restricted to properly authorized and trained personnel.
- (h) Companies shall provide adequate training to ensure that established operational safety plans and contingency plans are understood by all authorized personnel.
- (i) Companies using or producing Regulated Substances shall have an adequate quantity of spill response equipment and supplies onsite to contain and cleanup spills of Regulated Substances.
- (j) Annual spill prevention briefings shall be provided to authorized personnel by company management to ensure adequate understanding of the operational safety and contingency plans. These briefings shall highlight any past spill events or failures and recently developed precautionary measures. Records of these briefings shall be kept for documentation purposes.
- (k) Instructions and phone numbers for reporting spills to the City of Delightful Fire Department and other local, State, and Federal agencies shall be posted in all areas where Regulated Substances are handled.

29.15 REQUIREMENTS FOR EXISTING FACILITIES.

- (1) Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which use, store, handle, or produce Regulated Substance in excess of quantities outlined in Section 29.09(2)(d-g), and all other facilities which are considered a prohibited use in Prohibited Uses, Section 29.11, or a provisional use in Provisional Use Permits, Section 29.13, all of which are incorporated herein as if fully set forth, shall be subject to the following requirements.
  - (a) Such facilities as defined in 29.15(1) which exist within the district at the time of enactment of a district shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and on-going environmental monitoring results to the City.
  - (b) Such facilities as defined in 29.15(1) which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining, with the City, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.
  - (c) Such facilities as defined in 29.15(1) cannot engage in or employ a use, activity, or structure listed in prohibited uses, section 29.11, or in provisional uses, section 29.13, which they did not engage in or employ at the time of enactment of a district, and can only expand, replace in kind or rebuild those present uses, activities, equipment, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a prohibited use or provisional use shall be expanded, replaced in kind, or rebuilt unless a provisional use

permit is granted for such expansion, replacement, or rebuilding. This section does not apply to normal maintenance or minor repairs.

- (d) Such facilities as defined in 29.15(1) cannot change the quantity or type of Regulated Substances handled, used or stored by the facility at the time of enactment of a district unless a provisional use permit is granted for such change in quantity or type.

29.16 CHANGING TECHNOLOGY.

- (1) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods, upon petition from such use, after conferring with the Groundwater Technical Review Committee or other expert opinion, and after appropriate public notice and hearing, the City, through appropriate procedures and actions to change these provisions of the Delightful Municipal Code, may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (2) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

29.17 ENFORCEMENT AND PENALTY.

- (1) PENALTY. Any person who violates, neglects or refuses to comply with any of the provisions of this ordinance shall be subject to a penalty as provided in Chapter 25 of this Municipal Code.
- (2) INJUNCTION. The City of Delightful may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- (3) NOTICE OF VIOLATION.
  - (a) Any person found in violation of any provisions of this ordinance (a) will be served with a written notice stating the nature of the violation and providing reasonable time for compliance.
  - (b) The notice shall be served in the manner provided by the law for the service of civil processes. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the County tax record.
- (4) INSPECTIONS. Subject to applicable provisions of law, the City of Delightful Inspector or authorized representative thereof shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this Ordinance to ensure that activities are in accordance with the provisions of Sections 29.09 through 29.15. Upon request of the entity which is the subject of the inspection, and if permitted by the State Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the appointed individual for the above stated purposes, the Board of Public Works may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

- (5) VANDALISM. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with water facilities of the City and/or any other protected public water supply, or which results in the violation of Sections 29.09 through 29.15.
- (6) SUBJECT AREA. The area subject to the provisions of this ordinance is the Wellhead Protection Overlay District as shown on the official Zoning Map of the City of Delightful and as legally described in 29.08.
- (7) DETERMINATION OF APPLICABILITY. It shall be the responsibility of any person owning real property and/or owning or operating a business within the Wellhead Protection District to make a determination of the applicability of Sections 29.09 through 29.15 as they pertain to the property and/or business, and failure to do so shall not excuse any violation of said sections.
- (8) MANAGEMENT.
  - (a) No persons shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as “handle,” any Regulated Substance on public or private property within the Wellhead Protection District or in any area under the jurisdiction of said Wellhead Protection District, except as provided by law, statute, ordinance, rule or regulation.
  - (b) Any violation of subsection (10)(a) of this Section is hereby determined to be a nuisance.
- (9) SPILLS, LEAKS OR DISCHARGES.
  - (a) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Wellhead Protection District shall, if such spill, leak or discharge escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the City of Delightful Fire Department utilizing the county wide 911 service and the Superintendent/Manager of Public Utilities of the City of Delightful, or the operator on duty at the affected or potentially affected water treatment facility by telephone within thirty (30) minutes. The notification shall include at a minimum, the location of the incident, name and telephone number of the contacting party, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, State, and Federal reporting obligations.
  - (b) Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the City of Delightful in response to such an incident, in addition to the amount of any fines imposed on account thereof under State and Federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.
- (10) CLEANUP COSTS. As a substitute for, and in addition to any other action, the City of Delightful may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a Ground Water Protection Overlay District shall immediately cease such discharge and immediately initiate clean up satisfactory to the City of Delightful and the other state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the City employees, equipment, and mileage.

29.18 CONFLICT, INTERPRETATION AND SEVERABILITY.

- (1) CONFLICT AND INTERPRETATION OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.
- (2) SEVERABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The City Council hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.