

ORDINANCE NO.: ____

AN ORDINANCE creating Sections 46-42 and 46-43 of the Code of Ordinances of the City of La Crosse regarding the creation of a Wellhead Protection district/s to ensure the long-term health of the City's drinking water supply.

WHEREAS, the State of Wisconsin Department of Natural Resources (DNR) Administrative Code §§811-812 establishes authority and mandates for water utilities regarding wellhead protection; and

WHEREAS, the City of La Crosse Water Utility has conducted a comprehensive Wellhead Protection Study, resulting in a Wellhead Protection Plan, including various recommendations for operations, maintenance, and Codification to regulate the supply and distribution of clean, safe drinking water; and

WHEREAS, the City of La Crosse's Comprehensive Plan calls for implementation of the recommendations of the City of La Crosse Water Utility Wellhead Protection Plan, as part of zoning, land use, and development, and the delineation of wellhead protection areas.

WHEREAS, protection of the City's wells from spills, contamination, and vandalism is of the utmost importance.

THEREFORE, the Common Council of the City of La Crosse do ordain as follows:

SECTION I: Chapter 46, Article II, Section 42 is hereby created to read as follows:

Sec. 46-42. – Wellhead Protection.

(a) Purpose, Authority, and Definitions

- (1) *Purpose.* Customers of the City of La Crosse Water Utility 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 section is to institute land use regulations and restrictions protecting the utility water supply and promote public health, safety, and general welfare.
- (2) *Authority.* Wisconsin Legislature via Wis. Admin. Code 811 authorizes the Water Utility to enact and enforce this section, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.
- (3) *Definitions.* The following word, terms, and phrases when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means an individual, partnership, association, corporation, or other legal entity that is requesting in writing a land use within the delineated Wellhead Protection Overlay District.

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

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

Design standards means regulations that apply to the development of structures and infrastructures within a designated wellhead protection district.

Municipal water supply means the municipal water supply of the City of La Crosse.

Operating standards means regulations that apply to land use activities/business practices within a designated wellhead protection district.

Permitted use means land use or development that by design or operation is allowed without further technical or regulatory review within defined areas of a district.

Prohibited use means land use or development that is not allowed within the defined areas of the district.

Person or persons means an individual, partnership, association, corporation, municipality or state agency, or other legal entity.

Recharge area means the area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, and supplies groundwater to a well.

Regulated substances means either one of the following

- a. Chemicals and chemical mixtures that are health hazards as identified in Safety Data Sheets (SDS) under the Global Harmonization System. A SDS is typically available from the substance manufacturer or supplier. Substances packaged for consumption for humans or animals are not considered regulated substances; or
- b. Contaminants including, but not limited to, hazardous substances and hazardous waste as defined under the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the federal Resource Conservation and Recovery Act (RCRA), and all applicable rules and regulations.

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 pumping well. The time of travel is located in the recharge area upgradient of a well, or its cone of depression.

Zone of Saturation means the area of unconsolidated, fractured, or porous material that is saturated with water and constitutes groundwater.

(b) Wellhead Protection Overlay Districts

(1) *Creation*

- a. Wellhead protection overlay districts shall be created to institute land use regulations and restrictions within defined areas that contribute water directly to the municipal water supply and thus promote public health, safety, and welfare. The districts are intended to protect groundwater recharge areas for the existing or future municipal water supply from contamination.
- b. The boundaries and zones of the wellhead protection overlay districts shall be as determined and approved by the Water Utility Board. Said boundaries shall constitute those in the Zoning Code, Wellhead Protection Overlay Districts.

(2) *Zones*

- a. Zone 1 of a wellhead protection overlay district is the area of land which contributes water to the well in question, out to a 30-day time of travel to the well. This results in an area within an approximate radius of 400 feet from the wellhead.
- b. Zone 2 of a wellhead protection overlay district 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 partial five-year time of travel to the well. This results in an area beginning from the Zone 1 boundary and extending out to an approximate radius of 1200 feet from the wellhead.

- (3) *Separation Distances.* Wis. Admin. Code NR 811.12(5)(d) is hereby adopted by reference. Separation distances of said Code or those defined herein, whichever more stringent, shall be the separation distances maintained.

(c) Permitted and Prohibited Uses

(1) Zone 1 Permitted Uses. The following are the only permitted uses in Zone 1:

- 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. Residential with municipal sewer free of flammable or combustible liquid underground storage tanks

- 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) Zone 2 Prohibited Uses. The following are prohibited uses in zone 2. All other uses are permitted:

- a. Buried hydrocarbon, petroleum, or hazardous chemical storage tanks (Hazardous chemicals are under 29 CFR 1910.1200 (c) and not excepted under 40 CFR 370.13.)
- b. Cemeteries
- c. Standard Industrial Classification (OSHA) Major Group 28 chemical manufacturers.
- d. Coal storage
- e. Dry cleaners
- f. Industrial lagoons and pits
- g. Landfills and any other solid waste facility
- h. Manure and animal waste storage
- i. Nonmetallic earthen materials extraction or sand and gravel pits
- j. Pesticide and fertilizer dealer, transfer or storage
- k. Railroad yards and maintenance stations
- l. Rendering plants and slaughterhouses
- m. Salt or deicing material storage
- n. Salvage or junk yards and recycling centers
- 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 12,000 gallons per day or more
- r. Stockyards and feedlots

- s. Stormwater infiltration basins without pretreatment, and a minimum depth of 3 feet of engineered soils, to filter media as defined in Wisconsin DNR Technical Standard 1004- "Bio Retention for Infiltration"; including vegetative filtration and/or unlined temporary detention devices
- t. Motor vehicular services, including filling and service stations, repair, renovation and body working
- u. Wood preserving operations

(d) Building Permit

Any Building Permit, as required by Code, shall only be approved if it also meets the following requirements:

- a. The use is permitted within the zone.
- b. The application meets the following design and operation standards:
 - 1. All design standards listed in Chapter 103
 - 2. All design standards listed in the "Standard Specifications and Procedures" kept on file in the City Engineer's office, open for inspection pursuant to Section 2-470.
 - 3. All other standards listed in the Code or Wisconsin DNR standards listed in WI. Admin. Code 811, whichever is more stringent, to protect the Wellhead and groundwater.

(e) Legal non-conforming uses

- (1) The existing lawful use of a structure which is not in conformity with the provisions of this section may continue subject to the following conditions:
 - a. No modifications or additions to the structures shall be permitted unless approved by the Board of Public Works. Such modifications or additions shall only be approved if the Board of Public Works determines it is in the public interest, it improves the environmental safety and does not create a new prohibited use.
 - b. Nonconforming structures shall devise, file, and maintain with the City a current contingency plan which details of intended response to any emergency which may cause or threaten to cause environmental pollution that occurs at the facility, including notifying municipal, county, and state officials.
 - c. Nonconforming structures shall maintain and provide upon request copies of: the following: 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.

- (2) If a nonconforming use or structure is discontinued for 12 consecutive months, it is no longer permitted, and any future use of the structure shall conform with the requirements of this section.
- (3) All existing non-conforming structures may make routine maintenance and repairs to restore prior use and size prior to damage event. Approval for maintenance and repairs is not required.

(f) Notice of violation

- (1) Any person found in violation of any provisions of the Code may be served with a written notice stating the nature of the violation, including a required, reasonable time for full compliance. The notice may be served either in person or via first-class mail. Such notice is not required in order to enforce a violation under this section.

(g) Spills, Leaks, and Discharges.

- (1) No person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, any regulated substance on public or private property within the wellhead protection overlay district, except as provided by another section in this Code or by State statute.
- (2) Any person with direct knowledge of a spill, leak or discharge of a regulated substance that escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated within the waterhead protection overlay district, shall give notice to one of the persons authorized to enforce this section, within thirty (30) minutes. The notification shall include the location of the incident, name and telephone number of the contacting party, date and time thereof, type of substances, concentration and volume, and control or corrective action taken. Such notification shall not assuage any State or Federal reporting obligations.
- (3) Any person spills, leaks or discharges regulated substances in the waterhead protection overlay district shall be liable for any reasonable expense, loss, damage, or cleanup incurred by the City in response to such an incident.
- (4) A person spills, leaks or discharges regulated substances in the waterhead protection overlay district shall document and maintain sufficient records to reflect accurately the circumstances related to any such incident and develop and implement procedures to eliminate the likelihood of recurrence of spills, leaks, or discharges within ninety (90) days after the incident.

(h) Enforcement and Penalty

- (1) *Penalty.* Any person who violates any of the provisions of this section shall be subject to a penalty as provided in this Code.
- (2) *Injunction.* Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease-and-desist order before resorting to injunction proceedings.

(3) *Inspection.* All persons authorized to enforce this section may inspect premises to ensure compliance with the provisions of this section. Such persons may request an inspection warrant to ensure compliance with this section

SECTION II: Chapter 46, Article II, Section 43 is hereby created to read as follows

Sec 46-43 Vandalism of Public Water Supply .

No person shall break, damage, destroy, uncover, deface, contaminate, including dumping and illicit discharge, or tamper with any structure, appurtenance, property, or equipment which is a part of, or used in conjunction with, facilities of the public water supply.

SECTION III: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION IV: This Ordinance shall take effect upon passage and publication.

Shaundel Washington-Spivey, Mayor

Nikki Elsen, City Clerk

Passed:
Approved:
Published: