

ORDINANCE NO. 2020-1821

AND ORDINANCE REPEALING AND RECREATING CHAPTER 17, SEC. 17.05 – ESTABLISHMENT OF DISTRICTS AND CREATING CHAPTER 17, SEC. 17.29 GROUNDWATER PROTECTION OVERLAY DISTRICT, OF THE MUNICIPAL CODE OF THE CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, RELATING TO THE PROTECTION OF THE MUNICIPAL WATER SUPPLY.

THE COMMON COUNCIL OF THE CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN DOES ORDAIN AS FOLLOWS:

CHAPTER 17 – ZONING CODE, Sec. 17.05. Establishment of districts of the code of ordinances, City of Kaukauna, Wisconsin is hereby repealed and recreated to read as follows:

Sec. 17.05. – Establishment of districts.

For the purpose of this chapter, the city is hereby divided into the following districts:

- (1) SF Residential Single-Family District.
- (2) RNC Residential Neighborhood Conservation District.
- (3) RTF Residential Two-Family District.
- (4) RMF Residential Multifamily District.
- (5) CCD Commercial Core District.
- (6) CBD Central Business District.
- (7) CHD Commercial Highway District.
- (8) CSD Commercial Shopping Center District.
- (9) IND Industrial District.
- (10) IPD Industrial Park District.
- (11) IT Institutional District.
- (12) MH Mobile Home District.
- (13) CH Conservancy District.
- (14) FWD Floodway District.
- (15) FFD Flood Fringe District.
- (16) FPD General Floodplain District.
- (17) GWP Groundwater Protection Overlay District

AND, CHAPTER 17 – ZONING CODE, Sec. 17.29. GWP Groundwater Protection Overlay District of the code of ordinances, City of Kaukauna, Wisconsin is hereby created to read as follows:

Sec. 17.29. – GWP Groundwater Protection Overlay District

- (1) Purpose. The residents of the City of Kaukauna depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Ordinance is to establish a groundwater protection overlay district to institute land use regulations and restrictions within a defined area which contributes water directly to the municipal water supply providing protection for the aquifer and municipal water supply of the City of Kaukauna and promoting the public health, safety and general welfare of City 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) {which has since been renumbered as §59.69(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, §62.23(7)(c) and 60.10(2), 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.
- (3) Application. The regulations specified in this Wellhead Protection Ordinance shall apply within the area surrounding each municipal water supply well that has been designated as a “wellhead protection area” by the City in the most recent & up to date wellhead protection plan, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this chapter and the zoning ordinance, the more restrictive provision shall apply.
- (4) Groundwater protection overlay district. The location and boundaries of the zoning districts established by this chapter are set forth in the City of Kaukauna’s most recent and up to date wellhead protection plan on the map titled “Wellhead Protection Area” [on file in the offices of Kaukauna Utilities and the City of Kaukauna Planning Department] 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 chapter as though fully set forth and described herein. This ordinance and thus promotes public health, safety, and welfare. The groundwater protection overlay district is intended to protect the groundwater recharge area for the water supply from contamination.
 - (a) Note: Wellhead protection areas are derived from hydrologic studies and are based on the area surrounding a well where groundwater takes 5-years or less to travel from the land surface to the pumping well
- (5) Permitted Principal Uses and Structures. The following uses are permitted in the Groundwater Protection Overlay District subject to the separations distances in Section 8 Separation Distances.
 - (a) Parks, playgrounds or wildlife areas, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
 - (b) Non-motorized trails, such as bike, skiing, nature and fitness trails.
 - (c) Residential, commercial and industrial establishments that are municipally sewered and whose use, Aggregate of Hazardous Chemicals in use, storage, handling and/or production may not exceed 20 gallons or 160 pounds at any time, with the exception for those uses listed as “conditional” or “prohibited” in Sections 4 or 5 (Hazardous chemicals are identified by OSHA under 29 CFR 1910.1200(c) and by OSHA under 40 CFR Part 370.).
 - (d) 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.

(6) Conditional Uses. The following uses may be conditionally permitted under CHAPTER 1, ARTICLE E Conditional Uses, in the Groundwater Protection Overlay District subject to the separations distances found below in Section 8 Separation Distances.

- (a) Hydrocarbon, petroleum or hazardous chemical storage tanks.
- (b) Motor vehicle services, including filling and service stations, repair, renovation and body work.
- (c) Residential, commercial and industrial establishments that are municipally sewered and whose use, Aggregate of Hazardous Chemicals in use, storage, handling and/or production exceeds 20 gallons or 160 pounds at any time.
- (d) Stormwater infiltration basins
- (e) Geothermal wells, also known as ground source heat pump along with any associated piping and/or ground loop component installations.

(7) Prohibited Uses. The following uses are prohibited in the Groundwater Protection Overlay District.

- (a) Animal waste storage areas and facilities.
- (b) Application of fertilizer to manicured lawns or grasses in excess of the nutrient requirements of the grass.
- (c) Asphalt product manufacturing plants.
- (d) Dry cleaning establishments.
- (e) Fertilizer manufacturing or storage facilities.
- (f) Foundries and forge plants.
- (g) Hazardous chemical processing or manufacturing facilities.
- (h) Industrial liquid waste storage areas.
- (i) Landfills or other areas for dumping, disposal or transferring of garbage, refuse, recycling, trash, or demolition material, including auto salvage operations.
- (j) Metal reduction or refinement facilities.
- (k) Mining operations, including metallic, gravel pits, industrial or frac-sand mining.
- (l) Motor freight terminals.
- (m) Petroleum or hazardous chemical storage greater than 110 gallons in any single wall petroleum storage tank (double wall storage tanks installations shall meet the requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110).
- (n) Road salt or de-icing materials storage areas.

(8) Separation Distances. The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained within the Groundwater Protection Overlay District.

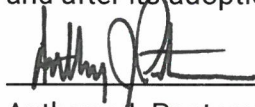
- (a) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110.
- (b) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.

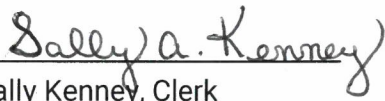
- (c) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.
- (d) Three hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (e) Three hundred feet between a well field and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (f) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.
- (g) Six hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (h) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
- (i) Twelve hundred feet between a well field 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; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its

designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

- (9) Existing Non-Conforming Uses. In accordance with Sec. 16.08 - Nonconforming structures and uses, the lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.
- (10) Conflict and Severability. 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 affect the validity of any other section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

This ordinance shall be in full force and effect from and after its adoption and publication.

APPROVED: 
Anthony J. Penterman, Mayor

ATTEST: 
Sally Kenney, Clerk

Adopted: December 1, 2020

Published: December 9, 2020

