

ORDINANCE NO. 185-21A

AND ORDINANCE CREATING § 185-21 WELLHEAD PROTECTION AREA OVERLAY DISTRICT, OF THE MUNICIPAL CODE OF THE VILLAGE OF MERRIMAC, SAUK COUNTY, WISCONSIN, RELATING TO THE PROTECTION OF THE MUNICIPAL WATER SUPPLY.

THE BOARD OF TRUSTEES OF THE VILLAGE OF MERRIMAC, SAUK COUNTY WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1. Wellhead Protection Area Overlay District: Chapter 185, ZONING, Article III, Zoning Districts, §185-21A *Wellhead Protection Area Overlay District*, of the code of ordinances, Village of Merrimac, Wisconsin is hereby created to read as follows:

§ 185-21A. Wellhead Protection Area Overlay District.

- (1) **Purpose.** The residents of the Village of Merrimac 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 Wellhead Protection Area 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 Village of Merrimac and promoting the public health, safety and general welfare of Village residents.
- (2) **Authority.** Statutory authority of the Village 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, under §61.35, Wis. Stats., the Village has the authority to enact this ordinance, effective in the incorporated areas of the Village, 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 Village 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) **Wellhead Protection Area Overlay District.** The location and boundaries of the zoning districts established by this chapter are set forth in the Village of Merrimac’s most recent and up to date wellhead protection plan on the map titled “Wellhead Protection Area” [on file in the Village of Merrimac office] 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 Wellhead Protection Area 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 uses and structures.** The following uses are permitted in the Wellhead Protection Area Overlay District subject to the separation 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 185 *Zoning*, Article IV *Conditional Uses*, in the Wellhead Protection Area 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.
 - (f) Road salt or de-icing materials storage areas.
- (7) **Prohibited Uses.** The following uses are prohibited in the Wellhead Protection Area Overlay District.
- (a) Animal waste storage areas and facilities used for or associated with commercial farming operations.
 - (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.
- (8) **Separation Distances.** The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained within the Wellhead Protection Area 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 Article V *Nonconforming Uses, Structures and Lots* the lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this Chapter may be continued even though 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 or enlarged. Any reconstruction, substitution, movement, or alteration of the use must be done in a manner that improves the existing environmental and safety technologies already in existence.

SECTION 2. 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.

SECTION 3. Effective Date. This ordinance shall take effect upon passage and posting as provided by law.

Date Adopted: _____

Date Recorded: _____

Date Posted: _____

Effective Date: _____

Phil Budde, President

Attest: _____
Jennie Klecker, Administrator/Clerk/Treasurer