

# **WELLHEAD PROTECTION ORDINANCE**

No. 2011-01

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**-WELLHEAD PROTECTION ORDINANCE-**  
No. 2011-01

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

The Village Board of the Village of Weyerhaeuser, Rusk County, Wisconsin does hereby 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 of the Village of Weyerhaeuser depend entirely on groundwater for safe (potable) drinking water supply. Certain land use practices and activities can potentially threaten or degrade groundwater quality. The purpose of this WHP Ordinance is to establish land use regulations and restrictions to protect the Village's Municipal Water Supply and Well Fields, and to protect the health, safety and general welfare of its citizens and the general public.
- (2) Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, 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) The regulations specified in this WHP Ordinance shall apply within the Village'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) Wellhead Protection Area: The Wellhead Protection Area (WHPA) is the area designated in the WHP Plan for the protection of the Village's groundwater supply source.
- (3) Existing facilities: "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the Village's wellhead protection area that lies within the corporate limits of the Village. 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.

- (4) Recharge Area: "Recharge Area" for a well is the total area or boundary, within the water bearing aquifer that must be replenished with water of equal volume that was extracted by pumping activity. This area extends beyond the corporate limits of the Village of Weyerhaeuser.
- (5) Zone of Influence: The Zone of Influence (ZOI) is the cone of depression in the static groundwater table surface that has a geometric shape of an inverted cone which develops around a well when water is being withdrawn during pumping.
- (6) Groundwater Protection Overlay District. "Groundwater Protection Overlay District" means that portion of the recharge area for the Village wells that lies within the Village limits as shown on the map attached hereto as Exhibit "A" and incorporated herein as if fully set forth.
- (7) 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.
- (8) POWTS: means a private onsite wastewater treatment system.

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

- (1) Separation Distance. The following minimum separation distances, as contained in s. NR811.12(5)(d), Wis. Adm. Code, shall be maintained within the Groundwater Protection Overlay District.

1. 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. Comm 10.260 and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110.

2. 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.

3. Two hundred feet between a well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or 2 family residential heating fuel oil underground storage tank or above ground storage tank or POWTS treatment tank or holding tank component and associated piping.

4. Three hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. Comm 10.260 and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110. 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.

5. Three hundred feet between a well and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. Comm 10.260 and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110. 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.

6. Four hundred feet between a well and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

7. Six hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. Comm 10.260 and receive written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, etha-

nol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

8. 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; 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.

9. 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; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of commerce or its designated Local Program Operator under s. Comm 10.110 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.

(2) Three Overlay District Zones. This District is hereby divided into Zones 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, natural 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. Above-ground petroleum product storage tanks complying with ch. Comm 10, Adm. Code.
3. Residential, commercial and industrial property which is municipally sewered or has a state-approved sewer and POWTS.

(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 Village Board 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. Refer to the WHPP’s mapping for specific dimensions relative to Zones A and B.

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

- (1) The Village of Weyerhaeuser shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District. All determinations shall be made by the Weyerhaeuser Village Board within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by Weyerhaeuser’s Village Board for “good cause”, as determined in the sole and absolute discretion of the Village of Weyerhaeuser.
- (2) Upon reviewing all requests for approval, Weyerhaeuser’s Village Board shall consider all of the following factors:
  - (a) The Village’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 Village of Weyerhaeuser or the Village’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 Village’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 protective components 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. Weyerhaeuser's Village Board 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 Village Board or its designee.
  - (b) The cost of groundwater monitoring or groundwater wells if required by the Village Board or its designee.
  - (c) The costs of an appraisal for the property or other property evaluation expense if required by the Village Board or its designee.
  - (d) The costs of Village 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 Village, representing the Village's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
  - (e) The cost of Village equipment employed.
  - (f) The cost of mileage reimbursed to the Village 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 Village of Weyerhaeuser.
- (2) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Village Board, 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 devising and/or filing with the Village of Weyerhaeuser, a contingency plan satisfactory to the Village Board for the immediate notification of the appropriate Village of Weyerhaeuser 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.**

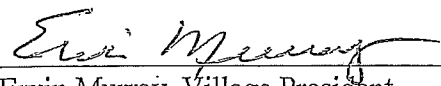
- (1) In the event an individual and/or facility causes the release of any contaminants which endanger the aquifer protected by the Groundwater Protection Overlay District, the individual/facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the Village of Weyerhaeuser.
- (2) The individual/facility shall be responsible for all costs of cleanup and the Village of Weyerhaeuser's consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:
  - (a) The cost of Village 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 Village, representing the Village's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
  - (b) The cost of Village equipment employed.
  - (c) The cost of mileage reimbursed to the Village employees attributed to the clean-up.
- (3) Following any such discharge, the Village 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) 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 offence.

**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 affect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Village Board of the Village of Weyerhaeuser 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.

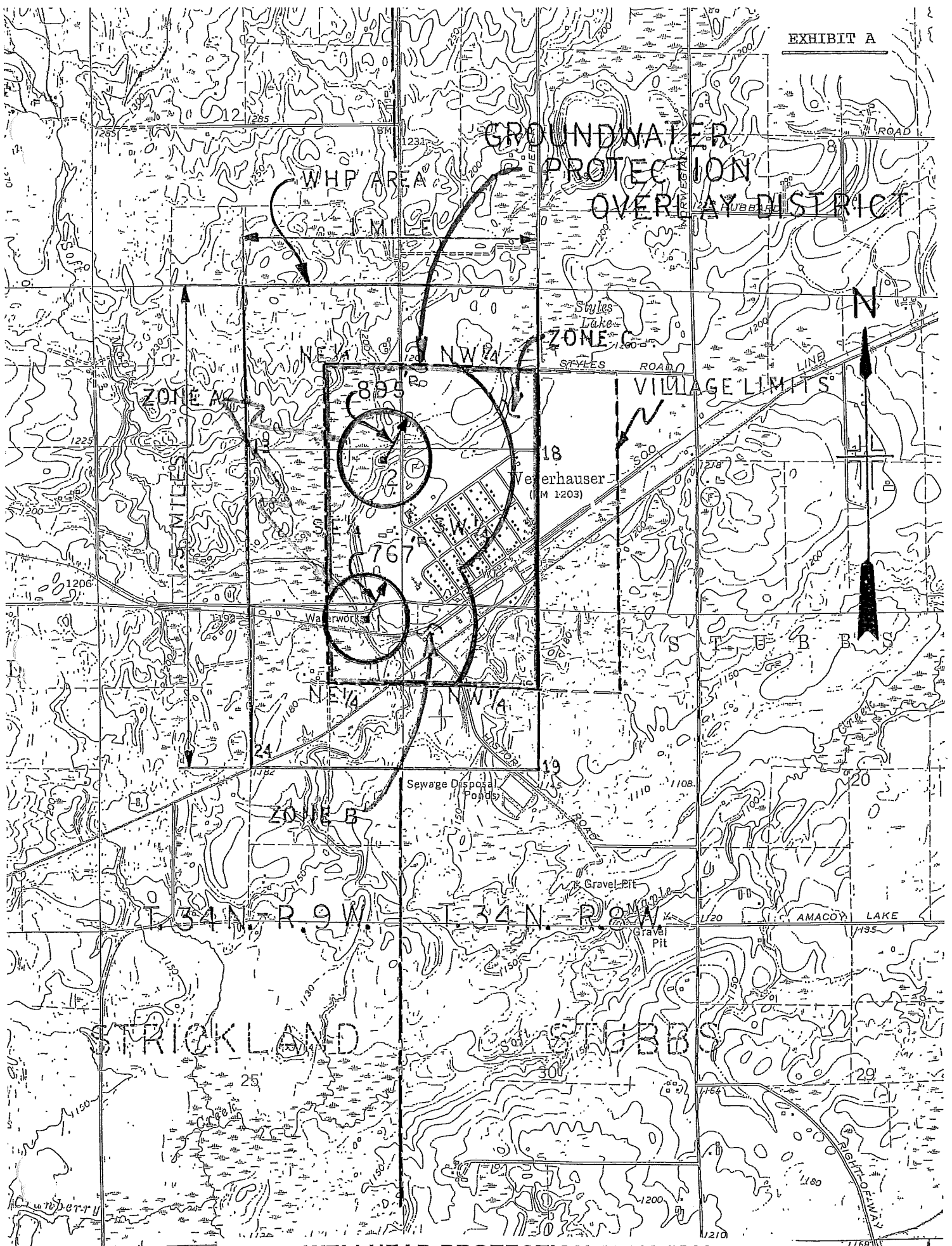
**SECTION 10.** This Ordinance shall take effect upon passage and publication as provided by law.

APPROVED THIS: 10th day of August, 2011.

  
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Ervin Murray, Village President

  
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Kathy Stewart, Village Clerk





WELLHEAD PROTECTION AREA MAP WITH