

CHAPTER 17

FAIR HOUSING (1998)

WELLS (1999)

17.01 FAIR HOUSING (1998)

17.01 WELL ABANDONMENT - WELL OPERATION PERMITS (1999)

17.02 WELLHEAD PROTECTION

AN ORDINANCE TO CREATE CHAPTER 17 OF THE MUNICIPAL CODE OF THE VILLAGE OF BAGLEY, GRANT COUNTY, WISCONSIN RELATING TO WELL ABANDONMENT AND WELL OPERATION PERMITS.

WHEREAS, s. NR 811.10, Wisconsin Administrative Code, directs suppliers of water for municipal water systems to require the abandonment of all unused, unsafe or noncomplying wells located on the premises served by their system, and to provide a permit system to allow retention of safe and code complying wells, by local ordinance or water utility rule, to eliminate sources of unsafe water and to prevent such wells from becoming channels for vertical movement of contaminated water and to eliminate all existing cross-connections and prevent all future cross-connections.

THE VILLAGE BOARD OF THE VILLAGE OF BAGLEY, GRANT COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

Section I: Chapter 17 of the Municipal Code is hereby created to read as follows:

SECTION 1: PURPOSE

To protect public health, safety and welfare and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying well or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross-connected to the municipal water system, are properly maintained or abandoned.

SECTION 2: APPLICABILITY

This ordinance applies to all wells located on premises served by the Village of Bagley municipal water system. Utility customers outside the jurisdiction of the municipal system may be required under contract agreement or utility rule to adopt and enforce equivalent ordinances within their jurisdictions for purpose stated in Section 1 above.

SECTION 3: DEFINITIONS

- A. "Municipal water system" means a community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation district, municipal water district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
- B. "Noncomplying" means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.

- C. "Pump installation" means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
- D. "Unsafe" well or pump installation means one which produces water which is bacteriologically contaminated or contaminated with substances which exceeds the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by The Department of Natural Resources.
- E. "Unused" well or pump installation means one which is not used or does not have a functional pumping system.
- F. "Well" means a drillhole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
- G. "Well Abandonment" means the proper filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.

SECTION 4: ABANDONMENT REQUIRED

All wells on premises served by the municipal water system shall be properly abandoned in accordance with Section 6 of this ordinance by December 7, 1999 or not later than 90 days from the date of connection to the municipal water system, unless a valid well operation permit has been issued to the well owner by the Village of Bagley under terms of Section 5 of this ordinance.

SECTION 5: WELL OPERATION PERMIT

Owners of wells on premises served by the municipal water system wishing to retain their wells for any use shall make application for a well operation permit for each well no later than 90 days after connection to the municipal water system. The Village of Bagley shall grant a permit to a well owner to operate a well for a period not to exceed 5 years providing all conditions of this section are met. A well operation permit may be renewed by submitting an application verifying that the conditions of this section are met. The Village of Bagley or its agent, may conduct inspections and water quality tests to be conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the Clerk. All initial and renewal applications must be accompanied by a fee of \$5.00. The following conditions must be met for issuance or renewal of a well operation permit:

- (1) The well and pump installation shall meet the Standards for Existing Installations described in s. NR 812.42, Wisconsin Administrative Code.
- (2) The well and pump shall have a history of producing safe water evidenced by at least 2. coliform bacteria samples taken a minimum of 2 weeks apart. In areas where the

Department of Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical tests may be required to document the safety of the water.

- (3) There shall be no cross-connections between the well's pump installation or distribution piping and the municipal water system.
- (4) The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the sewer utility.
- (5) The private well shall have a functional pumping system.
- (6) The proposed use of the private well shall be justified as reasonable in addition to water provided by the municipal water system.

SECTION 6: ABANDONMENT PROCEDURES

- (1) All wells abandoned under the jurisdiction of this ordinance shall be done according to the procedures and methods of s. NR 812.26, Wisconsin Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.
- (2) The owner of the well, or the owner's agent, may be required to obtain a well abandonment permit prior to any well abandonment and shall notify the clerk at least 48 hours in advance of any well abandonment activities. The abandonment of the well may be observed or verified by personnel of the municipal system.
- (3) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Clerk and The Department of Natural Resources within 30 days of the completion of the well abandonment.

SECTION 7: PENALTIES

Any well owner violating any provision of this ordinance shall upon conviction be punished by forfeiture of not less than \$250.00 nor more than \$500.00 and the cost of prosecution. Each day of violation in a separate offense. If any person fails to comply with this ordinance for more than 30 days after receiving written notice of the violation, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

Section II: This ordinance shall take effect upon its passage and publication as required by law.

Adopted and approved this 7th day of September, 1999.

Charles V. Stagman
Charles Stagman, Village President

COUNTERSIGNED:

Rae Ann Cooley
RaeAnn Cooley, Village Clerk

Date Adopted: 9-7-99
Date Recorded: 9-7-99
Date Published: 9-10-99
Effective Date: 9-11-99

2005-05

ORDINANCE TO CREATE SECTION 17.02 OF THE MUNICIPAL CODE OF THE VILLAGE OF BAGLEY, WISCONSIN, AS IT RELATES TO WELLHEAD PROTECTION AND TO RENUMBER CHAPTER 17 TO SECTION 17.01

The Village Board of the Village of Bagley, Grant County, Wisconsin, do hereby ordain as follows:

SECTION I: Section 17.02 of the Municipal Code of the Village of Bagley is hereby created to read as follows:

17.02 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 Village of Bagley (hereafter Village) 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 Village municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the Village.

2. These regulations are established pursuant to the authority granted to villages by the Wisconsin Legislature in ss. 61.35 and 62.23 (7)(a) and (c), Wis. Stats., to adopt ordinances to protect groundwater.

(c) APPLICABILITY. The regulations specified in the WHP Ordinance shall apply within the Village 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 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.

(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) 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 as described in the Village's wellhead protection plan. A copy of the Village's wellhead protection plan can be obtained from the Village Clerk.

(d) GROUNDWATER PROTECTION OVERLAY DISTRICT - "Groundwater protection overlay district" means that area described within the Village's wellhead protection plan. A map of the overlay district is attached to this ordinance.

(e) 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 Bagley well fields' recharge areas included within a calculated fixed radius around each well, as determined in the wellhead protection plan, normalized to geographic boundaries, and contained within the Village 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, except for the following uses:

- a. Above ground and underground storage tanks.
- b. Animal waste containment or disposal facilities.
- c. Automotive service and repair garages, body shops.
- d. Paint or coating manufacture.
- e. Bulk fertilizer or pesticide facilities.
- f. Asphalt products manufacture.

- g. Junk yards, auto salvage yards or recycling facilities.
- h. Dry cleaning.
- i. Gas stations.
- j. Holding ponds or lagoons or infiltration ponds.
- k. Bulk salt storage.
- l. Nurseries, lawn and garden supply stores.
- m. Small engine repair services.
- n. Wastewater treatment facilities.
- o. Wells, private, production, injection or other.
- p. Any other use determined by the Village Board 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). The following separation distances shall apply for Village Wells #1 and #2:

1. Fifty feet between a well and a storm sewer main.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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 Village.

2. Existing facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, 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 Village a contingency plan satisfactory to the Village 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 the prompt notification of Village officials in the event of an emergency.

5. Existing facilities cannot engage in or employ a use, activity or structure listed in prohibited uses, par. (b) above which they did not engage in or employ at the time of enactment of a District and can only expand or 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 used. No existing use, activity or structure listed as prohibited use or conditional use permit is granted for expansion, replacement or rebuilding. This section does not apply to normal maintenance or minor repairs.

6. The owners of existing facilities shall comply with the requirements of this section to provide information, protections, monitoring or filing not less than 6 months after the effective date of this section.

(e) EXEMPTIONS AND WAIVERS

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

2. All requests shall be in writing. Such requests may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the Village and/or designee(s) for recommendation and final decision by the Village Board.

3. The individual/facility shall reimburse the Village 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 Village.

(4) SUPREMACY OF THE DISTRICT

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

(5) 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 Village.

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

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

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

3. The cost of Village equipment employed.

4. The cost of mileage reimbursed to Village employees attributed to the cleanup.

(c) Following any such discharge the Village may require additional test monitoring and/or bonds/securities.

(d) Enforcement shall be provided, at the Village's option, pursuant to either section 12.04 or section 15.04 of the Municipal Code.

SECTION II. Chapter 17 of the Municipal Code is hereby renumbered to be Section 17.01 of the Municipal Code.

SECTION III. CONFLICT AND SEVERABILITY. Section 15.02 of the Municipal Code applies to this ordinance.

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

Adopted and approved this 4th day of October 2005.

Roger L. Straha
Roger Straha, Village President

COUNTERSIGNED:

Terry Van Loo
Terry Van Loo, Village Clerk

Date Adopted:	<u>10-04-05</u>
Date Recorded:	<u>10-04-05</u>
Date Posted:	<u>10-06-05</u>
Date of filing Affidavit:	<u>10-1-05</u>
Effective Date:	<u>11-1-05</u>

AFFIDAVIT OF POSTING

STATE OF WISCONSIN)
) SS
COUNT OF GRANT)

I, Terry Van Loo, Village Clerk of the Village of Bagley, Grant County, Wisconsin, being first duly sworn, state on oath:

1. **Date:** On the 6 day of Oct 2005, I posted the following entitled ordinance at the following public places in the Village.

2. **Title of Ordinance:**

Weedhead Protection

3. **Posting Locations.** Said ordinance was posted at the following four (4) public places located within the Village limits:

- Bulletin Board – Community Building
- Bulletin Board – Outside of the Post Office
- Bulletin Board – Willow Lane Pump House
- Grandpa's General Store

Terry Van Loo
Name: Terry Van Loo
Village Clerk

Subscribed and sworn to before me
This 1st day of November, 2005:

Eileen A. Brownlee
Eileen A. Brownlee
Notary Public, State of Wisconsin
My Commission ~~expires~~ is permanent