

CHAPTER 18

WELLFIELD AND AQUIFER PROTECTION

SECTION 1: PURPOSE

This Chapter shall be known as the “Umatilla Wellfield and Aquifer Protection Aquifer Protection Ordinance”.

All provisions of this Chapter shall be effective within the incorporated areas of Umatilla, Florida, and shall set restrictions, constraints and prohibitions on inappropriate development and land use to protect existing and future public water supply wells from degradation by contamination from deleterious substances. The provisions of this Chapter shall apply to all public wells supplying potable water by public utilities. Public supply Well shall be defined as a community or noncommunity system for the provision to the public of piped water provided that such system has at least fifteen (15) service connections or regularly serves at last twenty-five (25) individuals daily at least sixty (60) days out of the year. The provisions of this Chapter shall also apply to the Surficial Aquifer.

SECTION 2: LEGISLATIVE INTENT

- a) The intent and purpose of this Chapter is to protect and safeguard the health, safety, and welfare of the citizens of Umatilla, Florida, by providing criteria for restricting deleterious substances and contaminants, and for regulating the design, location and operation of development, land use activities which may impair existing and future public water supply wells.
- b) The prohibitions of the ordinance shall not apply to:
 - 1) Residential activity, except as set out in Section 5 of this Chapter.
 - 2) Nonresidential activity which has received prior development approval as set out in the exemptions in Section 7 of this Chapter.

SECTION 3: DEFINITIONS

All terms defined in Chapter 2, “Definitions and Interpretations” of the Code are applicable in this Chapter.

SECTION 4: MAPS OF PUBLIC WATER SUPPLY WELLS

- a) Regulated Areas pertaining to public wellfield protection shall be shown on Map I-2 of the Future Land Use element of the Comprehensive Plan, as adopted by the City Council, and incorporated herein by reference. This map shall be maintained by the Public Works Director, and copies shall be provided to the Lake County Public Health Department (HRS), East Central Florida Regional Planning Council, St. John's River Water Management District, and other agencies requesting said maps.
- b) The Regulated Area Map shall illustrate existing and future public water supply wells and their zones of protection on zoning maps on file in the City Hall.
- c) The Regulated Area Map shall be reviewed annually and, if necessary, updated. Any amendments, additions or deletions shall be adopted by the City Council by ordinance and shall be shown on the Regulated Area Map.

SECTION 5: PROHIBITED ACTIVITIES/LAND USES

- a) Any nonresidential land use which stores, handles, produces or uses any regulated substances (as defined in Chapter 2 of the Code) is prohibited within regulated areas unless exempt pursuant to Section 7 of this Chapter.
- b) The following uses or structures are also prohibited within regulated areas:
 - 1) The location of septic systems within two hundred (200) feet of a public water supply well, unless otherwise approved by DER or HRS;
 - 2) The location of stormwater wet retention/detention areas, as defined by SJRWMD, within three hundred (300) feet of a public water supply well, unless otherwise approved by SJRWMD;
 - 3) The location of wastewater treatment plant effluent discharges, including but not limited to, percolation ponds, surface water discharge, spray irrigation, or drainfields, within five hundred (500) feet of a public water supply well, unless otherwise approved by DER;
 - 4) The location of a landfill and/or collection center within five hundred (500) feet of a public water supply well;
 - 5) The location of feed lots or other concentrated animal facilities within five hundred (500) feet of a public water supply well;

- 6) The location of mining and/or excavation of waterways or drainage facilities which intersect the water table within one thousand (1000) feet of a public water supply well, unless otherwise approved by SJRWMD; and
- 7) The location of underground or above ground stationary tanks containing regulated substances, including fuel storage tanks, within five hundred (500) feet of a public water supply well.

SECTION 6: **PROTECTION OF FUTURE PUBLIC WATER SUPPLY WELLS**

- a) The prohibitions and restriction set forth in this Chapter, and any regulations promulgated pursuant thereto, shall apply to any future public water supply well sites adopted by the City Council by ordinance, provided, however, that the restrictions shall not apply to residential or nonresidential land uses that have received development approval prior to the effective date of the ordinance.

SECTION 7: **EXEMPTIONS**

- a) The following activities or land uses shall be exempt from the regulated area prohibitions set forth in Section 5 of this Chapter.
 - 1) Exemption for public potable water facilities. Public potable water facilities shall be exempt regarding the routine operation and maintenance of potable water systems. This exemption does not apply to land uses involving the maintenance and refueling of vehicles or the storage of regulated substances.
 - 2) Exemption for continuous transit and deliveries. The transportation of any regulated substance through regulated areas shall be exempt, provided the regulated substances are not being stored, handled, produced, or used within the regulated area in violation of this Chapter, and the delivery of regulated substances to nonresidential land uses that have received final development approval prior to the effective date of this chapter, provided that these land uses require such substances for the continued operation and maintenance of the land uses as approved.
 - 3) Exemption for the vehicular fuel and lubricant use. The use in a vehicle of any regulated substance, solely as operating fuel in that vehicle or as lubricant in that vehicle shall be exempt.

- 4) Exemption for application of pesticides, herbicides, fungicides, and rodenticides. The application of those regulated substances used as pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control, and aquatic weed control activities shall be exempt provided that:
- A) In all regulated areas the application is in strict conformity with the use requirement as set forth in the EPA registries for substances and as indicated on the containers in which the substances are sold; and
 - B) In all regulated areas the application is in strict conformity with the requirements as set forth in Chapters 5E-2 and 5E-9, Florida Administrative Code. This exemption applies only to the application of pesticides, herbicides, fungicides and rodenticides.
- 5) Exemption for the use of fertilizers containing any form of nitrogen. The use of fertilizers containing any form of nitrogen shall be exempt provided that:
- A) For nonresidential recreation areas, including private golf courses, the application of nitrogen containing materials shall be in accordance with manufacturer's directions or recommendations of the Lake County Agriculture Extension Agent, provided, however, the amount of fertilizer applied shall not exceed forty (40) pounds of nitrogen per acre per month average for the total area or two (2) pounds per thousand (1000) square feet per month or any localized area within the activity. Notwithstanding, the amount of applied fertilizer shall not exceed two hundred (200) pounds of nitrogen per acre per year.
 - B) For agricultural areas, the application of nitrogen containing materials shall be in accordance with manufactures direction or recommendations of the Lake County Agricultural Extension Agent.
 - C) For nonresidential landscape areas, the application of nitrogen-containing materials shall be in accordance with manufacturer's directions or the recommendations of the Lake County Agricultural Extension Agent or areas on areas of ten thousand (10,000) square feet or less.
- 6) Exemptions for existing retail sale and wholesale activities. Retail sale and wholesale establishments in regulated areas shall be exempt provided that the establishments in only store and handle regulated substances for resale in their original unopened containers.

- 7) Exemptions for office uses. Regulated substances for the maintenance and cleaning of office buildings and regulated substances associated with office equipment such as copiers or blueprint machines shall not be allowed onsite in quantities greater than the quantities exempted in Section 8(C).

- 8) Exemptions for approved nonresidential activities. The following nonresidential activities are exempted:
 - A) Nonresidential land uses existing as of the effective date of this Chapter which have received site plan, subdivision or similar development approval and building permits.

 - B) Nonresidential land uses existing as of the effective date of this Chapter which have received occupational licenses, or similar forms of annual development approval and which do not require site plan, subdivision, or similar development approval and building permits. For the purposes of this exemption, renewal of annual development approval shall also be exempt, provided, however, that there are not expansions, modifications or alterations that would increase the storage, handling, production, or use of the regulated substance.

 - C) Only those nonresidential land uses which store, handle, produce, or use the following quantities of regulated substances shall be exempt from the regulated prohibition set out in Section 5.
 - 1) Whenever the aggregate sum of all quantities of any one regulated substance for any one nonresidential activity at a given facility/building or property at any one time does not exceed six (6) gallons where said substance is a liquid, or twenty five (25) pounds where said substance is a solid.

 - 2) Whenever the aggregate sum of all regulated substances for any one nonresidential activity at one facility/building or property at any one time does not exceed one hundred (100) gallons if said substances are liquids, or five hundred (500) pounds if said substances are solids, and the aggregate sum of all quantities of any one regulated substance does not exceed the reference limits. Any facility or building which stores, handles, produces, or uses more than one hundred (100) pounds of liquid regulated substances or five hundred (500) pounds of solid regulated substance shall be designed to prevent contamination of wellfields in case of accidents, ruptures, or leaks.

- 3) Where regulated substances are dissolved in or mixed with other non-regulated substances, only the actual quantity of the regulated substance present shall be used to determine compliance with the provisions of this ordinance. The actual quantity of the regulated substance present shall be the total quantity of the original unopened container(s) regardless of concentration or purity.

D) Special Exemptions

- 1) Request for exemption. Any person subject to the prohibitions set out in Section 5 may apply to the City Council for a special exemption.
- 2) Information and fee required. The application for special exemption shall include, at a minimum, payment of an application fee and provision of the following information on a form provided by the City Clerk or designee:
 - a) A concise statement detailing the circumstances which the applicant feels demonstrates the need for a special exemption.
 - b) A description of the mechanisms that will be utilized to meet the criteria required for issuance of the exemption as set out in paragraph D(5) below;
 - c) A written verification by a qualified Florida professional engineer or Florida certified hydrogeologist that the proposed use or activity will not result in adverse impacts, to the protected wellfield potable water supply; and
 - d) An agreement to indemnify and hold the City of Umatilla harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the Special Exemption. The City shall provide reasonable notice to the exemptee of any such claim.
- 3) Review by the City Clerk and Public Works Director.
 - a) Within ten (10) working days of receipt of an application for special exemption, the City Clerk or designee, shall inform the applicant in writing

whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, the City clerk or designee shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform the City clerk or designee within ten (10) working days of the date of the written statement of his intent to either furnish the information or have the application processed as it stands.

- b) Prior to notifying the applicant, the City Clerk or designee shall request the following from the Public Works Director and/or Lake County Environmental Health Department:
 - 1) Written comments regarding the sufficiency of the application; and
 - 2) A written recommendation for issuance with applicable conditions or denial.
 - c) The Public Works Director and/or Lake County Environmental Health Department shall make appropriate surveys, tests and inspections of property, facilities, equipment and processed proposed or operating under the provisions of this section to determine compliance with the provisions of this section. At a minimum, a written inspection report from the Lake County Environmental Health Department and/or Public Works Director to the City Clerk shall be required prior to the issuance of a Certificate of Occupancy.
- 4) Issuance or denial. At the end of said ten (10) day period or receipt of the additional information, the City Clerk or designee shall schedule the request for special exemption at a regularly scheduled City Council meeting.
 - 5) Criteria for issuance. The City Council shall grant an exemption if the person applying for the exemption demonstrates that adequate technology exists to isolate the facility or land use from the potable water supply within the Zone of Protection wherein the proposed facility of land use would be located. At a minimum, the following issues shall be addressed.

- a) substance inventory;
- b) containment;
- c) emergency collection devices;
- d) emergency plan;
- e) daily monitoring;
- f) equipment maintenance;
- g) reporting of spills;
- h) potable water well monitoring;
- i) groundwater monitoring;
- j) alterations/expansions;
- k) reconstruction after catastrophe (fire, vandalism, flood, explosion, collapse, wind war or other); and
- l) others, as applicable to groundwater protection

All costs associated with providing protective measures as referenced above shall be borne by the applicant or exemptee, as applicable.

- 6) Revocation or revision. Any special Exemption granted by the City Council pursuant to this Chapter shall be subject to revocation or revision by the City Council for violation of any condition of said Special Exemption after issuance of a written notice of intent to revoke or revise (certified mail return receipt requested or hand delivery). The applicant shall have the right to a hearing before the City Council prior to revocation or revision in accordance with the procedures set out in Section. Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this ordinance.
- 7) Other agency requirements. Any special Exemption granted by the City Council pursuant to this ordinance shall not relieve the exemptee of the obligation to comply with any other applicable federal, state, regional, or local regulation, rule, ordinance or requirement. Nor shall said exemption relieve any exemptee of any liability for violation of such regulations, rules, ordinances or requirements.
- 8) New regulations. Upon adoption of any amendment to this Chapter or any regulation that supersedes this Chapter, the Special Exemption shall be subject to the newly adopted regulations.

SECTION 8: ENFORCEMENT AND PENALTIES

- a) Enforcement, penalties, appeals, and remedy of matters related to this Chapter shall be regulated pursuant to procedures established in Chapter 3, “Administration”.
- b) Each person who commits, attempts to commit, conspires to commit, or aids and abets in the commission of any act in violation of the Chapter whether individually or in connection with one or more persons, or as a principal, agent or accessory, shall be subject to prosecution for such offense and every person who falsely, fraudulently, forcibly or willfully entices, causes, coerces, requires, permits or directs another to violate any provision of this Chapter is likewise subject to prosecution for such offense.
- c) Each day that a violation of this Chapter is continued or permitted to exist without compliance shall constitute a separate offense.
- d) No development orders, site plan approvals, building permits, occupational licenses, zoning compliances, or certificates of occupancy shall be issued to any violator of this chapter for a subject property in violation until such violation of this Chapter has been properly abated to the satisfaction of the City.
- e) Notwithstanding any other penalty provisions set forth herein, the City of Umatilla may file an action for injunctive relief in the Circuit Court in Lake County in order to prevent any violation of this ordinance.