

Chapter 305

WELLHEAD PROTECTION

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| <p>§ 305-1. Purpose and authority.</p> <p>§ 305-2. Applicability.</p> <p>§ 305-3. Definitions.</p> <p>§ 305-4. Groundwater Technical Review.</p> <p>§ 305-5. Creation of WHPA.</p> <p>§ 305-6. Effect on Other Regulations.</p> <p>§ 305-7. Defined Area.</p> <p>§ 305-8. WPA Boundaries.</p> <p>§ 305-9. Permitted Uses.</p> | <p>§ 305-10. Separation Distances.</p> <p>§ 305-11. Prohibited Use.</p> <p>§ 305-12. Classification of Use.</p> <p>§ 305-13. Design and Operational Standards.</p> <p>§ 305-14. Existing Facility Requirements.</p> <p>§ 305-15. Changing Technology.</p> <p>§ 305-16. Violations and Penalties.</p> <p>§ 305-17. Interpretation and Conflicts.</p> |
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[HISTORY: Adopted by the Village Board of the Village of Genoa City 8-8-2002 (Title 5, Ch. 3 of the 1984 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Pollution -- See Ch. 200.

Water and sewers -- See Ch. 270.

Subdivision of land -- See Ch. 295.

Zoning -- See Ch. 310.

§ 305-1. Purpose and authority.

The residents of the Village of Genoa City 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 chapter is to institute land use regulations and restrictions protecting the municipal water supply of the Village of Genoa City and to promote the public health, safety, and general welfare of the Village's residents. The authority to enact this Chapter is granted to the Village by the Wisconsin State Statutes.

§ 305-2. Applicability.

The regulations specified in this chapter shall apply to the incorporated areas of Genoa City that lie within the recharge areas for municipal water supply wells as defined in § 305-7 and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this Chapter and Chapter 310, Zoning, the more restrictive provision shall apply.

§ 305-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AQUIFER -- A saturated, permeable geologic formation that contains and will yield significant quantities of water.

CONE OF DEPRESSION -- The area around a well in which the water level has been lowered at least 1/10 of a foot by pumping of the well.

DESIGN STANDARDS -- Regulations that apply to the development of structures and infrastructure within a designated wellhead protection district.

FIVE-YEAR TIME OF TRAVEL -- The recharge area upgradient of the cone of depression, the outer boundary from which it is determined or estimated that groundwater will take five years to reach a pumping well.

MUNICIPAL WATER SUPPLY -- The municipal water supply of the Village of Genoa City.

OPERATING STANDARDS -- Regulations that apply to land use activities/business practices within a designated wellhead protection district.

PERMITTED USE -- Land use or development that by design or operation is allowed without further technical or regulatory review within defined areas of a wellhead protection district.

PERSON -- An individual, partnership, association, corporation, municipality, or state agency or other legal entity.

PROVISIONAL USE -- Land use or development that either by design or operation requires additional technical or regulatory review and permitting in order to exist within defined areas of a wellhead protection district.

RECHARGE AREA -- The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supply groundwater to a well.

REGULATED SUBSTANCES -- Chemicals and chemical mixtures that are health hazards. Health hazards for chemicals and chemical mixtures are typically identified on material safety data sheets (MSDS) available from the substance manufacturer or supplier. Substances packaged for consumption for humans or animals are not considered regulated substances. Regulated substances include:

- A. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure, including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepatotoxins, agents that act on the hematopoietic system, reproductive toxins, and agents which damage the lungs, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, Health Hazard Definitions (Mandatory).
- B. Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

- C. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises 1% or greater of the composition on a weight-per-unit weight basis.
- D. Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is 1/10 of 1% or greater of the composition on a weight-per-unit weight basis.
- E. Ingredients of mixtures prepared within the wellhead protection area in cases where such ingredients are health hazards but comprise more than 1/10 of 1% of the mixture on a weight-per-unit weight basis if carcinogenic or more than 1% of the mixture on a weight-per-unit weight basis if non-carcinogenic.
- F. Petroleum and nonsolid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power to homes and businesses).

THIRTY-DAY TIME OF TRAVEL -- The recharge area up-gradient of a well, or its cone of depression, the outer boundary from which it is determined or estimated that groundwater will take 30 days to reach a pumping well.

WELL FIELD -- A piece of land used primarily for the purpose of locating wells to supply a municipal water system.

WHPA – Abbreviation of “wellhead protection area”.

ZONE OF SATURATION -- The area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

§ 305-4. Groundwater technical review process.

- A. The groundwater technical review process shall include receiving approvals from the:
 - (1) Village Plan Commission
 - (2) Superintendent of Public Works.
 - (3) Village Engineer
- B. The groundwater technical review process will provide objective and scientific technical review of requests for use permits within the WHPA; make recommendations on any and all provisions placed on a use permit; give advice on matters concerning groundwater; and make recommendations to the Village Board which will then grant or deny use permits based upon the facts discovered during their review.

- C. The Village Board may retain a consultant to assist in the review of requests for use permits. Any costs incurred as part of the permit application review shall be reimbursed by the applicant.

§ 305-5. Creation of WHPA.

A WHPA may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promote public health, safety, and welfare. The WHPA is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

§ 305-6. Effect on Other Regulations.

The regulations of a WHPA will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay the WHPA will apply except when provisions of the wellhead protection area are more stringent.

§ 305-7. Defined area.

The WHPA includes the area of land which contributes water to the well in question. This area will include the thirty-day time of travel to the well based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities Appendix 2, the five-year time of travel to the well based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities Appendix 2, and the separation distances listed in § NR 811.16 Wis. Adm. Code, with boundaries normalized to road center lines, railways, surface features, and parcel lines.

§ 305-8. WHPA Boundaries.

The boundaries of the wellhead protection areas that are subject to the provisions of this Chapter are as shown on the official Genoa City Zoning Map dated September 11, 2008 and as amended thereafter.

§ 305-9. Permitted uses.

- A. The following permitted uses are subject to § 305-10 separation distance requirements, § 305-11 prohibited uses, and § 305-13 applicable design and operational standards:
- (1) Public and private parks and playgrounds or rest areas, provided that there are no on-site wastewater disposal systems or holding tanks, or that on-site wastewater shall be discharged to a municipal sewer.
 - (2) Wildlife and natural and woodland areas.
 - (3) Biking, hiking, skiing, nature, equestrian and fitness trails.

- (4) Municipally sewerred residential development.
 - (5) 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) Single-family residences on a minimum lot of 40,000 square feet with a private on-site sewerage treatment system receiving less than 8,000 gallons per day, which meets the county and state health standards for the effluent and is in conformance with Ch. COMM 83, Wis. Adm. Code.
 - (7) Residential use of aboveground LP gas tanks for heating, not to exceed 1,000 gallons.
 - (8) Commercial and industrial establishments that are municipally sewerred and whose aggregate use, storage, handling and/or production of Regulated Substances does not exceed 100 gallons of liquid or 800 pounds of solids at any time.
- B.** Citrus-based, biodegradable cleaners are not considered a Regulated Substance. In no case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.
- C.** A limited exclusion from the provisions of Subsection A is authorized for the Village to use its diesel generators for Village purposes.

§ 305-10. Separation Distances

- A.** The following separation distances as specified in § NR 811.16, Wis. Adm. Code, shall be maintained:
- (1) Fifty feet between the well and a storm-water sewer main or any sanitary sewer main constructed of water main materials and joints which are pressure tested in place to meet current AWWA 600 specifications.
 - (2) Two hundred feet between the well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
 - (3) Four hundred feet between the well and a septic system receiving less than 8,000 gallons per day, a cemetery, or a storm-water detention, retention, infiltration or drainage basin.

- B.** Separation distances listed in § NR 811.16(4)(d), Wis. Adm. Code, but not listed in this section shall be inapplicable in the Village of Genoa City, as those uses, activities or structures are prohibited in the wellhead protection areas.

§ 305-11. Prohibited uses.

The following uses are prohibited within the wellhead protection areas:

- A.** Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR 370.)
- B.** Chemical manufacturers (Standard Industrial Classification Major Group 28).
- C.** Coal storage.
- D.** Dry cleaners.
- E.** Industrial lagoons and pits.
- F.** Landfills and any other solid waste facility, except post-consumer recycling.
- G.** Manure and animal waste storage, except animal waste storage facilities regulated by the county.
- H.** All mining, including sand and gravel pits.
- I.** Pesticide and fertilizer dealer, transfer or storage facilities.
- J.** Railroad yards and maintenance stations.
- K.** Rendering plants and slaughterhouses.
- L.** Salt or deicing material storage.
- M.** Salvage yards or junkyards.
- N.** Storage or treatment of septage or sludge.
- O.** Septage, wastewater, or sewage lagoons.
- P.** Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
- Q.** Stockyards and feedlots.

- R.** Motor vehicle services, including filling and service stations, repair, renovation and body work.
- S.** Wood preserving operations.
- T.** The Village reserves the right to refuse any and all other uses or products that they determine are or may be harmful or detrimental to the wellhead protection area.

§ 305-12. Classification of use.

Classification of use as being permitted or prohibited shall be determined by an application submitted to the parties listed in § 305-4. The application shall be in writing and shall describe in detail the use, activities and structures proposed along with the quantities, use of, storage and handling of all regulated substances. A scaled site map shall be provided showing all building and structure footprints, driveways, loading docks, sidewalks, parking lots, storage yards and any other information deemed necessary for determination. The determination of the classification under the groundwater technical review process shall be rendered in writing to the Village Board within 60 days from receiving all requested information and shall include findings supporting the conclusion.

§ 305-13. Design and Operational Standards

- A.** The following design standards apply to permitted land use activities within the wellhead protection area:
 - (1)** Use of dry wells or other subsurface drains is prohibited.
 - (2)** All storm-water retention/infiltration ponds shall, at a minimum, use a design intended to maximize natural filtration.
 - (3)** Facilities that handle Regulated Substances shall have loading/unloading areas designed for the handling of Regulated Substances. The loading/unloading areas shall be designed with spill and/or runoff that is connected to a containment basin. Regulated Substances may be loaded/unloaded only in a designated handling area.
 - (4)** Storage areas for Regulated Substances shall be designed with secondary containment capable of controlling 125% of the maximum design capacity of the liquid storage area.
 - (5)** Facilities involved in the handling of Regulated Substances will, when determined necessary by the Village Board, prepare a groundwater monitoring plan.
- B.** The following operational standards apply to permitted land use activities within the WHPA:

- (1) No outdoor storage of product, material, or equipment other than that approved through the permitting process shall be allowed. Any designated outdoor storage area shall be an impervious surface paved with concrete or asphalt and have secondary containment when applicable.
- (2) Regulated Substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the WHPA, provided that such Regulated Substances are present at the construction site for which permits have been issued and so not pose a real or present danger of contaminating surface water and/or groundwater. For the on-site storage of fuel for vehicles or other equipment which may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Regulated Substances not used in the construction process and all wastes generated during construction shall be removed from the construction site not later than at the time of the completion of the construction. If construction activity has ceased for 30 days, all Regulated Substances shall be removed from the site until such time as the construction activity is to resume.
- (3) The use of deicing salt or other chemical deicing materials shall be minimized and used only when threats to safety occur.
- (4) Except in the case of seasonal discontinuation of operation, the owner or operator of any nonresidential property that becomes unoccupied or has discontinued operation for a period of 30 consecutive days shall remove all Regulated Substances from the property, except those approved to be exclusively used for heating, cooling, and providing electrical lighting for the premises, within 30 days after the date upon which the property initially became unoccupied or the operation discontinued. The owner or operator shall secure the Regulated Substances on the property until they have been removed. The owner or operator shall notify the Village Board in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number and forwarding address and the operator's name, phone number and forwarding address.
- (5) Truck, truck trailer, rail car, or tank truck transport, loading, and unloading procedures for Regulated Substances shall meet the minimum requirements of the United States Department of Transportation (DOT) and Wisconsin Department of Transportation.
- (6) No truck trailer, rail car, or truck shall be used for on-site storage of Regulated Substances. Regulated Substances shall be transferred from the delivery vehicle to the Regulated Substances storage area as soon as feasibly possible.
- (7) Daily visual inspections of Regulated Substances shall be conducted to check for container damage or leakage, stained or discolored storage surfaces in all storage

areas, and excessive accumulation of water in outdoor curbed areas and to ensure that dike drain valves are securely closed in outdoor curbed areas.

- (8) Storage areas for Regulated Substances shall have access restricted to properly authorized and trained personnel.
- (9) Companies shall provide adequate training to ensure that established operational safety plans and contingency plans are understood by all authorized personnel.
- (10) Companies using or producing Regulated Substances shall have an adequate quantity of spill response equipment and supplies on site to contain and clean up spills of Regulated Substances.
- (11) Annual spill prevention briefings shall be provided to authorized personnel by company management to ensure adequate understanding of the operational safety and contingency plans. These briefings shall highlight any past spill events or failures and recently developed precautionary measures. Records of these briefings shall be kept for documentation purposes.
- (12) Instructions and phone numbers for reporting spills to the Village of Genoa City Fire Department, Superintendent of Public Works, and other local, state and federal agencies shall be posted in all areas where Regulated Substances are handled.

§ 305-14. Existing Facility Requirements.

Existing facilities within the WHPA at the time of enactment of such district which use, store, handle, or produce Regulated Substances in excess of quantities outlined in the definition of Regulated Substances in § 305-3, and all other facilities which are considered a Prohibited Use in § 305-11, shall be subject to the following requirements:

- A. Such facilities as defined in this section which exist within the WHPA at the time of enactment of a WHPA shall provide copies of all current, revised or new federal, state, and local facility operation approvals, permits, or certificates, operational safety plans, and ongoing environmental monitoring results to the Village.
- B. Such facilities as defined in this section which exist within the WHPA at the time of enactment of a WHPA shall have the responsibility of preparing, filing, and maintaining, with the Village, a current contingency plan 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 notifying municipal, county, and state officials.
- C. Such facilities as defined in this section cannot engage in or employ a use, activity, or structure listed in § 305-11 Prohibited uses, which they did not engage in or employ at the time of enactment of a WHPA and can only expand, 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 WHPA and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a prohibited use shall be expanded, replaced in kind, or rebuilt unless a permit is granted for such expansion, replacement, or rebuilding. This subsection does not apply to normal maintenance or minor repairs.

- D. Such facilities as defined in this section cannot change the quantity or type of Regulated Substances handled, used, or stored by the facility at the time of enactment.

§ 305-15. Changing Technology.

- A. The uses prohibited by this chapter are prohibited based upon the combined pollution experience of many individual uses and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses changes to low- or non-risk materials or methods, upon petition from such use, after conferring with the parties listed in the groundwater technical review process or other expert opinion and after appropriate public notice and hearing, the Village, through appropriate procedures and actions to change these provisions of the Village of Genoa City Code, may remove from the designated prohibited uses such as are demonstrated convincingly to no longer pose a groundwater pollution hazard.
- B. In dealing with uses which attempt to become permissible under the terms of this chapter by continuing to utilize pollutant materials but altering their processing, storage, and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

§ 305-16. Violations and Penalties.

- A. **Penalty.** Any person who violates, neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty as provided in this Code.
- B. **Injunction.** The Village of Genoa City may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- C. **Notice of violation.**
 - (1) Any person found in violation of any provisions of this chapter will be served with a written notice stating the nature of the violation and providing 60 days for compliance.

- (2) The notice shall be served in the manner provided by the law for the service of civil processes. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax mailing address of the owner as shown on the county tax record.

- D. **Inspections.** Subject to applicable provisions of law, a Village of Genoa City authorized representative shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this chapter, to ensure that activities are in accordance with the provisions of §§ 305-9 through 305-14. Upon request of the entity which is the subject of the inspection, and if permitted by the State Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the appointed individual for the above-stated purposes, the Village of Genoa City may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.
- E. **Determination of applicability.** It shall be the responsibility of any person owning real property and/or owning or operating a business within the WHPA to make a determination of the applicability of this chapter as they pertain to the property and/or business, and failure to do so shall not excuse any violation of said sections.
- F. **Management.** No persons shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle," any Regulated Substance on public or private property within the WHPA or in any area under the jurisdiction of said WHPA, except as provided by law, statutes, ordinance, rule or regulation.
- G. **Spills, leaks or discharges.**
 - (1) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the WHPA shall, if such spill, leak or discharge escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the Village of Genoa City Fire Department utilizing the county-wide 911 service and the Superintendent of Public Works of the Village of Genoa City, or the operator on duty at the affected or potentially affected water treatment facility by telephone. The notification shall include, at a minimum, the location of the incident, name and telephone number of the contacting party, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state and federal reporting obligations.
 - (2) Any entity or person who or which spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the Village of Genoa City in response to such an incident, in addition to the amount

of any fines imposed on account thereof under state and federal law. Said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than 60 days after the incident.

- H. Cleanup costs.** As a substitute for, and in addition to, any other action, the Village of Genoa City may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a WHPA shall immediately cease such discharge and immediately initiate cleanup satisfactory to the Village of Genoa City and the other state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility where-on the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including Village employees, equipment, and mileage.

§ 305-17. Interpretation and Conflicts.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.