

**CHAPTER 9 HEALTH AND SANITATION**

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**9.01 RULES AND REGULATIONS**

The Board of Health may make responsible and general rules for the enforcement of the provisions of this chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare, and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances and any person violating any of such regulations and any lawful order of the Board shall be subject to a penalty as provided in §20.05 of this Code.

**9.02 HEALTH NUISANCES**

- (1) DEFINED. A health nuisance is any source of filth or cause of sickness.
- (2) DUTY TO ABATE. The Health Office and the Board of Health shall abate health nuisances pursuant to §254.59, Wis. Stats., which is adopted by reference and made a part of this section.
- (3) SUBJECT TO FORFEITURE. Any person who shall maintain or cause a nuisance after being notified to abate such nuisance shall be subject to a forfeiture as provided in §20.05 of this Code.

### **9.03 CROSS CONNECTION TO PUBLIC WATER SYSTEM PROHIBITED**

(1) A cross connection shall be defined as any physical connection or arrangement between 2 otherwise separate systems, one of which contains potable water from the Village water system and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the 2 systems.

(2) No person shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the Village may enter the supply or distribution system of such municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Water Utility and by the Wisconsin Department of Natural Resources in accordance with §NR 811.09, Wis. Adm. Code.

(3) It shall be the duty of the Water Utility to cause inspections to be made of all properties serviced by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Water Utility and as approved by the Wisconsin Department of Natural Resources.

(4) Upon presentation of credentials, the representative of the Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Village for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under §66.0119, Wis. Stats. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(5) The Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system.

Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 24 of the Municipal Code of Williams Bay, except as provided in sub. (6) below. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(6) That if it is determined by the Water Utility that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the Village Clerk and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 24 of the Municipal Code of Williams Bay, within 10 days of such emergency discontinuance.

(7) That the Village adopts by reference the State Plumbing Code being Ch. COMM 82, Wis. Adm. Code.

(8) That this section does not supersede the State and Village Plumbing Codes but is supplementary to them.

### **9.04 PROHIBITION OF VILLAGE DUMP**

(1) No person shall dump or deposit any garbage, rubbish or refuse anywhere in the Village.

## **9.05 MILK AND MILK PRODUCTS**

### (1) GRADE A REQUIRED.

(a) The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of milk and milk products sold for consumption within the Village; the issuing and revocation of licenses and permits to haulers, distributors and vendors, wholesale and retail, is regulated in accordance with the "Grade A" pasteurized milk ordinance adopted pursuant to the 1965 recommendation of the United State Public Health Service, a certified copy of which is on file in the office of the Clerk, which provisions are adopted verbatim as if set out at length, except those provisions specifying fees.

(b) Only "Grade A" pasteurized milk and milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores or similar establishments or placed for sale in vending machines or distributed in any other manner.

(c) No person shall sell, offer to sell or serve any milk or milk products permitted under this section unless such person has obtained a permit or license for that purpose from the Village Clerk.

(d) Any person distributing or selling milk or milk products at wholesale within the Village shall obtain a distributor's license from the Village Clerk, the issuance of which must first be approved by the Village Health Officer or his deputy.

(e) No person shall sell or offer for sale such milk or milk products to the final consumer without obtaining a permit from the Village Clerk, the issuance of which must be approved by the Village Health Officer or his deputy.

### (2) FEES.

(a) Wholesale Distributor. The annual fee for a license for a wholesale distributor shall be \$25.00 per year, which may be prorated for a part year and shall expire upon the following December 31.

(b) Vendors. The fee for a permit for a vendor to the ultimate consumer shall be \$5.00 per year and not prorated and shall expire December 31 of each year.

## **9.06 SWIMMING POOLS, STANDARDS -**

### (1) DEFINITIONS.

(a) Residential Swimming Pool is any constructed pool permanent or portable which is intended for non-commercial use as a swimming pool in connection with a residence and available only to the family of the residence and his or their private guests, and having a depth of more than 24 inches and a surface area exceeding 250 square feet, or a volume over 3,250 gallons.

(b) Public Swimming Pool is any swimming pool, other than a residential pool, intended to be used collectively by numbers of persons for a swimming pool open to the public.

(c) Person is any person, firm, partnership, association, corporation, company, governmental agency, club or organization of any kind.

### (2) STANDARDS.

(a) The Minimum Standards for residential pools adopted by the National Pool Institute to the latest date prior to making application for a permit are hereby adopted and incorporated herein verbatim by reference the same as if they had been set out in length.

(b) Plans and specifications for any public swimming pool must be approved first by the proper State authority and if no State law or code applies, then they must meet the minimum standards of a private pool as provided in sub. (3).

(3) **PERMIT REQUIRED.** No person shall construct or maintain a private swimming pool unless an application therefore has first been made to the Plan Commission incorporating plans and specifications which shall meet the minimum standards for pools adopted by the National Swimming Pool Institute of 2000 K St., N.W., Washington, D.C., as revised to the latest date available, and which application shall be approved by the Plan Commission and a permit issued as provided herein.

(4) **PLANS AND SPECIFICATIONS.** No person shall begin construction of either a residential or a public swimming pool, or substantially alter or reconstruct any such pool without first having submitted plans and specifications to the Building Inspector for review and without first having received a permit from the Inspector for such construction or reconstruction.

Such plans and specifications must include the specifications of the enclosure and shall be submitted in duplicate and the Building Inspector shall arrange for the review and approval of the plans and specifications by other appropriate departments concerned with such matters as zoning, electrical, structural and plumbing requirements. A permit to construct, alter or renovate shall be issued by the Inspector following approval and authorization by him and any other departments or officers concerned therewith.

(5) **ENCLOSURE REQUIRED.** Every person owning or occupying land on which there is situated a swimming pool, fish pond or other body of water which constitutes an obvious hazard and contains 24" or more in depth at any point, shall erect and maintain thereon an adequate enclosure surrounding the pool area sufficient to make such a body of water inaccessible to small children. Such enclosure, including the gates therein, shall conform to the minimum standards as established by the aforesaid institute and Chapter 18.0505(c) of the Williams Bay Zoning Ordinance. This enclosure shall be erected as soon as possible prior to or during construction, and unless special permission is given by the Building Inspector, before water is placed in the pool.

#### **9.07 PRIVATE WELLS PROHIBITED**

(1) **PRIVATE WELLS TO BE SEALED AND FILLED.** All private wells located on any premises which is served by the public water system of the Village shall be properly sealed and filled as hereinafter provided by July 1, 1985.

Only those wells for which a well operation permit has been granted by the Village Clerk may be exempted from this requirement; subject to conditions of maintenance and operation.

(2) **WELL OPERATION PERMITS.** A renewable permit may be granted to a well owner to operate a well for a period not to exceed 5 years if the following requirements are met. (Application shall be made on forms provided by the Village Clerk.)

(a) The well and pump installation meet the requirements of Ch. NR 812, Wis. Adm. Code, and a well constructor's report is on file with the Department of Natural Resources or certification of the acceptability of the well has been granted by the Private Water Supply Section of the Department of Natural Resources.

(b) The well has a history of producing safe water and presently produces bacteriologically safe water as evidenced by 3 samplings 2 weeks apart.

(c) The proposed use of the well can be justified as being necessary in addition to water provided by the public water system.

(d) No physical connection shall exist between the piping of the public water system and the private well.

(3) **METHOD OF ABANDONMENT.** Wells to be abandoned shall be filled according to the procedures outlined in Ch. NR 812, Wis. Adm. Code. The pump and piping must be removed and the well checked for obstructions prior to plugging. Any obstruction or liner must be removed.

(4) **REPORTS AND INSPECTION.** A well abandonment report must be submitted by the well owner to the Department of Natural Resources on forms provided by that agency (available at the office of the Village Clerk). The report shall be submitted immediately upon completion of the filling of the well. The filling must be observed by a representative of the Village.

(5) **PENALTIES.** Any well owner violating any provision of this section shall, upon conviction, be punished by a forfeiture of not less than \$10 nor more than \$100, together with the cost of prosecution. Each 24 hour period during which a violation exists shall be deemed and constitute a separate offense.

#### **9.08 ANIMAL WASTE**

(1) **RESPONSIBILITY OF OWNER.** No owner, keeper or walker of any dog, cat or other domestic animal shall allow such animal to discharge its waste upon any public or private property other than the property of the owner of the domestic animal, unless such owner, keeper or walker immediately removes such animal waste from such public or private property. To this end, every owner, keeper or walker of a dog, cat or other domestic animal whose animal goes beyond his own property shall have in his possession a scoop, bag or other device designed to pick up and remove animal waste. This section shall not apply to blind persons having control of guide dogs.

(2) **ENFORCEMENT.** This section shall be enforced by the Village Police Department.

#### **9.09 PROPERTY MAINTENANCE**

(1) **POLICY AND PURPOSE.** It is hereby found and declared that there exists in the Village residential structures and nonresidential structures which are, or may become in the future, substandard with respect to structure, upkeep or maintenance. Such conditions, including, but not limited to, structural deterioration, lack of maintenance, poor exterior appearance, infestation and the existence of fire and health hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Village and may further result in the deterioration of property values. If such conditions are not curtailed and removed, they will grow and spread and necessitate future expenditures of large amounts of public funds to correct and eliminate. The purpose of this section is to protect the public health, safety, morals and welfare and retain property values by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises. Further, this section authorizes and establishes procedures for the inspection of residential and nonresidential premises and establishes penalties for violations of its contents.

(2) **DEFINITIONS.** For the purpose of this section, the following words and phrases shall have the meanings assigned to them in this section. Words and phrases not herein otherwise defined shall have the meanings accepted by common use.

*Blighting Influence.* A condition having an adverse effect on surrounding properties. An adverse effect upon surrounding properties is created when the value of surrounding properties are deteriorated, however slightly, by the condition of the subject property.

*Debris.* Broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; lumber (new or used), posts, sticks or other wood; paper, rags, including old clothing or discarded clothing; cardboard; excelsior; rubber; plastic; wire, tin and metal items; discarded furniture, household goods or appliances; junk lawn mowers; tar paper; residues from burning; or any similar materials which constitute health, fire or safety hazards or a blighting influence upon surrounding properties, the neighborhood or the Village in general.

*Junk.* Any old or scrap metal, metal alloy, synthetic or organic material or waste or any junked, ruined, dismantled, wrecked motor vehicle or machinery or any part thereof, whether salvageable or not or inoperable.

*Noncombustible Material.* Material that cannot be burned.

*Premises.* A lot, plot or parcel of real estate or land including all buildings and structures thereon.

*Refuse.* Debris as defined above.

*Rubbish.* Combustible and noncombustible waste materials, except garbage, and the term includes the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, mineral matter, glass crockery, dust and other similar materials.

(3) APPLICABILITY.

(a) Every residential, nonresidential or mixed occupancy premises located within the corporate limits of the Village, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this section, whether or not the buildings and structures thereon were constructed, altered or repaired before or after the enactment of this section and irrespective of any permits or licenses which have been issued for the use or occupancy of the premises, for the construction or repair of the premises or for the installation or repair of equipment or facilities upon such premises prior to the effective date of this section.

(b) In any case where the commands of this section create a higher standard than set by any other Village ordinance or under the laws of the State, the standards set forth herein shall prevail.

(c) No license, permit or other certification or indication of compliance with this section shall constitute a defense against violations of any other local ordinance applicable to any structure or premises nor shall any provision herein relieve any owner, operator or occupant from complying with any such other ordinance or preclude any official of the Village from enforcing any such other ordinance.

(4) EXTERIOR OF PREMISES. The owner, occupant or lessee of every premises shall keep the exterior of such premises and all structures thereon in a clean and sanitary condition, free from any accumulation of combustible or noncombustible debris, junk, rubbish or refuse or any similar material which could or may cause fire, safety or health hazards or constitute a blighting influence upon surrounding properties and free of all nuisances and of any hazards to the safety of the occupant, pedestrians or other people utilizing the premises. Further, the exterior of every structure within the boundaries of the Village shall be maintained in good repair by the owner, occupant or lessee. Such maintenance shall include, but not be limited to, the avoidance of broken glass, loose shingles, crumbling stone or brick, excessive peeling of paint, loose boards, exposed insulation or exposed tar paper or other conditions reflective of deterioration or inadequate maintenance. The purpose of such required maintenance is to eliminate safety and fire hazards, preserve the property and its value and protect adjoining properties from blighting influences and deteriorating values.

(5) LITTER CONTROL.

(a) Litter shall mean and include any uncontainerized waste which, if not deposited in a litter receptacle, tends to create a danger to public health, safety and welfare or impairs the environment of the people of the Village. Litter includes, but is not limited to, garbage, trash, refuse, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic, paper, motor vehicle parts or other nauseous and offensive matter.

(b) Every owner, occupant or lessee of a premises used for residence, business or commercial purpose shall maintain litter collection and storage areas if present on the

premises in a clean condition and insure that all litter is properly stored in containers. Such litter containers shall have sealed covers to avoid distribution of the litter by animals or the elements.

(c) The owner or person in control of any public premises including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily clean up of the premises, to prevent litter from being carried by the elements to adjoining premises.

(6) **MAINTAINING SIDEWALKS AND ALLEYS.** Persons owning, occupying or in control of premises shall keep the sidewalks and alleys adjacent to such premises free of litter, refuse, garbage and other debris. Owners, occupants or those in control of such premises shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from such materials.

(7) **ENFORCEMENT.** This section shall be enforced by the Building Inspector, who may investigate potential violations of this section upon complaint or upon his own observation. Upon presentation of proper credentials, the Building Inspector may enter at any reasonable time any building, structure or premises to investigate potential violations of this section or enforce the provisions of this section. If any owner, occupant or other person in charge of a building, structure or premises refuses, impedes, inhibits, interferes with, restricts or obstructs entry or free access to any part of the structure or premises upon the request of the Building Inspector, he may apply for and obtain a special warrant pursuant to §66.0119, Wis. Stats. Nothing in this section should be read to limit the Village's powers under §66.0413, Wis. Stats. Prior to commencement of legal proceedings to enforce the provisions of this section, the Building Inspector shall, as a condition precedent, issue a warning letter to a person in violation of this section, which letter shall state the violation and advise that unless the violating condition is remedied within 14 days from the date of the letter, legal process will issue for the enforcement thereof. Each day a violation continues shall constitute a separate offense.

#### **9.10 REGULATION OF DISPOSAL OF CONSTRUCTION MATERIALS**

(1) **PURPOSE.** This subsection is to prohibit the burning of construction materials and the burying of construction materials at construction sites because of the health risk from air and water pollution which may result from such practices as well as the necessity to properly dispose of such materials.

(2) **PROHIBITION.** No person, firm or corporation shall burn any construction materials or bury any construction materials at a construction site. All such materials must be properly disposed of off site by the person, firm or corporation making use of the materials at the construction site.

(3) **PENALTY FOR VIOLATION.** The penalties prescribed for violations of any of the provisions of this section shall be limited to a forfeiture. The forfeiture shall be levied upon anyone violating any of the provisions of this ordinance. The amount of the forfeiture shall be in the amount as set forth in §20.05 of the Municipal Code.

#### **9.11 WELL NO. 3 WELLHEAD PROTECTION**

(1) **PURPOSE AND AUTHORITY**

(a) The residents of Williams Bay 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 Wellhead Protection Ordinance is to institute land use regulations and restrictions protecting the municipal water supply of the Village of Williams Bay to promote the public health, safety and general welfare of the residents.

(b) 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 Section 62.23 (7)(c), Wisconsin Statutes, to the statutory authorization for municipal planning and zoning to protect the public health, safety and welfare.

## (2) APPLICATION OF REGULATIONS

(a) The regulations specified in this Wellhead Protection Ordinance shall apply to the areas of the Village of Williams Bay that lie within the wellhead protection area for Well No. 3 as shown in Attachment A, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this ordinance and the zoning ordinance in effect, the more restrictive provision shall apply.

## (3) DEFINITIONS

(a) **AQUIFER.** A saturated, permeable geologic formation that contains and will yield significant quantities of water.

(b) **CONE OF DEPRESSION.** The area around a well, in which the water level has been lowered at least one foot by pumping of the well.

(c) **FIVE YEAR TIME OF TRAVEL.** The 5-year time of travel is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five years to reach a pumping well.

(d) **MUNICIPAL WATER SUPPLY.** The municipal water supply of the Village of Williams Bay.

(e) **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, supplies groundwater to a well.

(f) **THIRTY DAY TIME OF TRAVEL.** The 30-day time of travel is the recharge area upgradient of a well, or its cone depression, the outer boundary of which it is determined or estimated that groundwater will take thirty days to reach a pumping well.

(g) **ZONE OF SATURATION.** The saturated zone is the area of unconsolidation, fractured or porous material that is saturated with water and constitutes groundwater.

## (4) WELLHEAD PROTECTION AREA (WHPA)

(a) This WHPA is intended to protect the groundwater recharge area for Well No.3 from contamination. The WHPA is necessary to institute land use regulations and restrictions within the area which contributes water directly to the municipal water supply, so as to promote public health, safety and welfare in the Village and to minimize public costs. The boundary of the WHPA is shown in Attachment A.

## (5) PERMITTED USES

(a) Permitted uses within the WHPA are subject to the separation distance requirements set forth in.

(6) **SEPARATION DISTANCE REQUIREMENTS,** the prohibition of uses, activities or structures designated in-

(7) **PROHIBITED USES,** and include:

a) Public and private parks provided there are no on-site wastewater disposal systems or holding tanks.

- b) Playgrounds.
- c) Wildlife areas and Natural areas.
- d) Trails such as biking, hiking, skiing, nature, equestrian, and fitness trails.
- e) Residential which is municipally sewered.
- f) Agricultural activities which are conducted in accordance with USDA-SCS Wisconsin Field Office Technical Guide Specification 590 nutrient management standards.
- g) Single family residences on a minimum lot of 20,000 square feet with a private on-site sewage 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 COMM 2.65, Wisconsin Administrative Code.
- h) Commercial establishments which are municipally sewered.
- i) Industrial establishments which are municipally sewered.

#### (8) SEPARATION DISTANCE REQUIREMENTS

a) The following separation distances as specified in NR 811.16, Wisconsin Administrative Code shall be maintained:

- 1) Fifty (50) feet between Well No. 3 and stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA 600 specifications.
- 2) Two hundred (200) feet between Well No. 3 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 (400) feet between Well No. 3 and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention, infiltration or drainage basin.
- 4) Six hundred (600) feet between Well No. 3 and any gasoline or fuel oil storage tank installation that has received written approval from the department of commerce or its designated agent under Comm 10.10, Wisconsin Administrative Code.
- 5) One thousand feet (1,000) between Well No. 3 and land application of municipal, commercial or industrial waste', 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 Well No. 3 and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility: sanitary landfill; coal storage area; salt or deicing material storage area: gasoline or fuel oil storage tanks that have not received written approval from the department of commerce or its designated agent under Comm 10.10, Wisconsin Administrative Code: bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

#### b) PROHIBITED USES

- (1) The method of regulation by prohibition of certain uses is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater

supply will not occur, since such an event would result in almost certain contamination of the public water supply, and costly mitigation or remediation for which liability is difficult or impossible to establish. The prohibited uses, activities or structures inside the WHPA include:

- a) Above and Below Ground Hydrocarbon or Petroleum Storage Tanks.
- b) Cemeteries.
- c) Chemical Manufacturers (Standard Industrial Classification Major Group 28).
- d) Coal Storage.
- e) Dry Cleaners.
- f) Hazardous, Toxic or Radioactive Materials Transfer and Storage.
- g) Industrial Lagoons and Pits.
- h) Landfills and Any Other Solid Waste Facility, except post-consumer recycling.
- i) Manure Storage.
- j) Non-metallic earthen materials extraction or sand and gravel pits.
- k) Pesticide and Fertilizer Dealer, Transfer or Storage.
- l) Railroad Yards and Maintenance Stations.
- m) Rendering Plants and Slaughterhouses.
- n) Salt or Deicing Material Storage.
- o) Salvage or Junk Yards.
- p) Septage or Sludge Spreading, Storage or Treatment.
- q) Septage, Wastewater, or Sewage Lagoons.
- r) Private On-site Wastewater Treatment Systems or Holding Tanks receiving 8,000 gallons per day or more.
- s) Stockyards and Feedlots.
- t) Stormwater infiltration basins without pre treatment.
- u) Vehicular Services, including filling and service stations, repair, renovation, and body working.
- v) Wood Preserving.

**(c) REQUIREMENTS FOR EXISTING FACILITIES WHICH MAY CAUSE OR THREATEN TO CAUSE ENVIRONMENTAL POLLUTION**

(1) Existing facilities within the WHPA at the time of enactment which may cause or threaten to cause environmental pollution includes, but are not limited to, the Wisconsin Department

of Natural Resources' current list of "Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution", Wisconsin Department of Commerce's list of Underground Storage Tanks, list of facilities with hazardous solid waste permits, and all other facilities which are considered a prohibited use in (7) PROHIBITED USES, all of which are incorporated herein as if fully set forth.

- a) Such facilities as above which exist within the WHPA at the time of enactment shall provide copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the Village.
- b) Such facilities as above which exist within the WHPA at the time of enactment shall provide environmental or safety structures / monitoring to include an operational safety plan, hazardous material containment, best management practices, stormwater runoff management and groundwater monitoring.
- c) Such facilities as above which exist within the WHPA at the time of enactment shall replace equipment, or expand on the site or property of record associated with the facility, in a manner that improves the environmental and safety technologies already being utilized.
- d) Such facilities as above which exist within the WHPA at the time of enactment shall have the responsibility of devising, filing and maintaining, with the Village, a contingency plan which details how they intend to respond to any emergency which occurs at their facility, including notifying municipal, county and state officials.
- e) Such facilities as above cannot engage in or employ a use, activity, or structure listed in (7) PROHIBITED USES, which they did not engage in or employ at the time of enactment, and can only expand those present uses, activities, or structures on the site or property of record associated with the facility at the time of enactment in a manner that improves the environmental and safety technologies already being utilized.

#### (9) CHANGING TECHNOLOGY

- (a) The uses prohibited in the WHPA 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 change to low or non-risk materials or methods, upon petition from such use, after conferring with the Department of Natural Resource, or other expert opinion, and after appropriate public notice and hearing, the Village through appropriate procedures and actions to change these provisions of the Municipal Code may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (b) In dealing with uses which attempt to become permissible, under the terms of this section in the WHPA, by continuing to produce 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 a technology of the use changes to low or non-risk the pollutant materials or processes deemed to be a groundwater hazard.

#### (10) ENFORCEMENT, VIOLATION AND PENALTY

- (a) All general and zoning enforcement, violation and penalty provisions set forth in the municipal ordinances apply to the enforcement of the provisions of this WELLHEAD PROTECTION ORDINANCE. In addition the following provisions apply:
  - 1) In the event any person, partnership, corporation, or other legal entity (hereinafter "individual") that owns a "facility", as defined in REQUIREMENTS FOR EXISTING FACILITIES WHICH MAY CAUSE OR THREATEN TO CAUSE ENVIRONMENTAL

POLLUTION (Sec 8), and that individual/facility causes, or is the site of, the release of any contaminants which endanger the municipal water supply associated with the WHPA, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.

2) The individual / facility shall be responsible for all costs of cleanup, Village consultant or outside contractor fees, fees at the invoice amount plus administrative costs for oversight, review and documentation, plus the following:

a) The cost of Village employee's time associated in any way with the 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, workman's compensation, holidays, overtime, vacation, and similar benefits.

b) The cost of Village equipment employed in the cleanup.

c) The cost of mileage incurred on Village vehicles used in any activity related to the cleanup, or of mileage fees reimbursed to Village employees attributed to the cleanup.

#### **9.12 PENALTY**

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter or any rule, regulation or order made hereunder shall be subject to a penalty as provided in §20.05 of this Municipal Code.