
TOWN OF DUNN/DUNN CO, WI
ORD. 2016-001

Groundwater Recharge Protection Overlay District Ordinance

- I. Title of the Ordinance, Purpose, Findings, and Objectives
- A. Title of the Ordinance. This ordinance shall be known as the Groundwater Recharge Protection Overlay District Ordinance of the Town of Dunn.
- B. The purpose of the groundwater recharge protection overlay district ordinance is to protect key groundwater recharge areas by imposing appropriate land use regulations in these areas. Wisconsin Act 410, 1983, specifically includes groundwater protection among the purposes for which zoning power may be exercised. The regulations of an overlay district will apply in addition to all other regulations, which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the groundwater protection overlay district are more stringent.
- C. Findings of Fact. In order to provide for the health, safety, and welfare of the public and a healthy economic climate in the Town of Dunn and surrounding area, it is essential that the quality of drinking water be ensured. For this reason it is necessary to protect the groundwater resources of the Town of Dunn. This ordinance is designed to protect, preserve, and maintain groundwater supplies and groundwater recharge areas. Such an ordinance helps manage development and land use practices that could contaminate or reduce the recharge to the aquifer.
- D. Objectives. The objectives of the ordinance are:
1. Protect groundwater quality by regulating land uses that generate, use, or store pollutants in excellent, very good, and good recharge areas.
 2. Protect groundwater quantity by limiting density in excellent and very good recharge areas.
 3. Protect groundwater quality and quantity by ensuring that any development that occurs within excellent and very good groundwater recharge areas will not threaten to decrease recharge to the aquifer and/or increase any contaminant to a level above its Wisconsin Groundwater Quality Public Health Enforcement Standard (ES) or its United States Environmental Protection Agency (USEPA) Primary or Secondary Maximum Contaminant Level (MCL). If groundwater is found to exceed one or more standards, then the ordinance ensures that development will not threaten to increase the contaminant level.

4. Agriculture practices that are accepted by the appropriate State of Wisconsin Agencies are not affected by this ordinance.

II. Establishment of a Groundwater Recharge Protection Overlay District

- A. Groundwater Recharge Protection Overlay District is hereby established which shall consist of all lands within the Town of Dunn that are mapped as excellent, very good, and good recharge areas by the map published by the Dunn County Land Conservation Division entitled, "Location of Recharge Areas to the Sandstone Aquifer in Dunn County, Wisconsin, 2005" by Neil C. Koch. Said map is hereby adopted by reference becoming a part of the ordinance as if the map were fully described herein.

III. Groundwater Protections Standards. The Town of Dunn for areas in the Groundwater Recharge Protection Overlay District requires the following standards.

A. Land development in excellent and very good groundwater recharge areas.

1. Lots that have any portion in excellent or very good groundwater recharge areas shall leave no less than 50% of the acreage as open space (green space). The green space shall first be located in those areas of excellent and/or very good recharge. See the Town of Dunn Subdivision Ordinance Chapter 2.8.c., for definition of green space.
2. Lots that have any portion in excellent or very good groundwater recharge areas and that are less than one acre shall either have a sewage treatment system as described in the Town of Dunn Subdivision Ordinance Chapter 2.8.n. definition of drainage way, or have a wastewater-holding tank.

B. Prohibited use of land in the excellent, very good, and good groundwater recharge areas includes, but are not limited to:

1. Land disposal of human waste from pumped septic systems.
2. Land disposal of sludge from municipal wastewater treatment.
3. Land disposal of hazardous wastes.
4. Landfills and incinerators.
5. Asphalt mixing plants.
6. Public or private recycling centers.
7. Contractor's storage yards, public or private dumping grounds, automobile wrecking yards, or junkyards.
8. Concrete mixing plants.
9. Gasoline service stations.
10. Car washes unless wastewater is removed to a wastewater treatment system.
11. Medical water facilities.

C. Except as stated below, the following zoning districts are prohibited in excellent, very good, and good recharge areas.

1. Industrial or Heavy Industrial District (I) or (HI)
2. Light Industrial (LI)
3. Commercial Districts (NC, HC, GC)
4. Mineral Extraction District (ME) except for nonmetallic mining operation for Town, County, or State Highway construction with limited purpose and duration.

An exception may be made if the applicant can demonstrate:

1. There is no threat to decrease recharge to the aquifer; *and*
2. There is no threat to increase any contaminant in the aquifer to a level above its current level or above "safe" levels, whichever is lower, (See section D3 of this document for standards and contaminant listings); *and*
3. There is no threat of contamination from surface flow into the other areas of excellent, very good, or good groundwater recharge areas.

D. As part of the approval process, specific contaminants that could be introduced into the aquifer by the proposed facility shall be identified. The applicant shall pay for any consultation that the Board deems necessary in determining possible contaminants, or in applying any other parts of this ordinance. Also as part of the approval process, the Town may require that restrictions be placed on the deed. These may include but not limited to:

- a. Limiting uses for any subsequent owner
- b. Limiting uses for current owner
- c. Requiring certain procedures to ensure compliance with this ordinance

IV. Modifications

- A. Authority application. Where in the judgment of the Town Board it would be inappropriate to apply literally the provisions of this ordinance because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper.
- B. Conditions for granting modifications. The Town Board shall not grant modifications or waivers to this ordinance unless it makes findings based upon the evidence presented to it in each specific case provided all the following conditions are met.
 1. The granting of the modification shall not be detrimental to the public, safety, health or welfare, or injurious to other property in the area.
 2. The conditions upon which the request for a modification is based are unique to the property for which the modification is sought and are not applicable generally to other property.
 3. Because of particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial

hardship, or self-imposed hardship, if the strict letter of this ordinance were carried out.

C. Granting modifications by the Town Board.

1. The Town Board, if it approves the modification to this ordinance, shall do so by motion or resolution.
2. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this ordinance or the desirable general development of the Town consistent with the Town of Dunn Comprehensive Plan and/or this ordinance.
3. Any modification granted can only provide the minimum relief needed to alleviate the unnecessary hardship or obtain reasonable use of the property.
4. A majority vote of the membership of the Town Board shall be required to grant any modification of this ordinance, and the reasons shall be entered in the minutes.

V. Violations, Penalties, and Enforcement

- A. Violation. It shall be unlawful to build upon or discharge any material in violation of the ordinance.
- B. Penalties. Any person, firm, corporation, or municipality who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and the forfeiture shall be added to the property tax when possible. Any person, firm, corporation, or municipality that discharges material in violation of the ordinance shall be required to remove the discharged material so as not to do harm to the quality of the groundwater. The perpetrator will be responsible for all clean up costs. If the cleanup is not completed within thirty (30) days after the conviction it shall constitute a separate offense and a separate offense for each thirty (30) day period thereafter.
- C. Enforcement. The Town Board may instate appropriate action or proceedings to enjoin violations of the ordinance or applicable state law.

Adopted this ____ day of _____, 2016 by the Town Board of the Town of Dunn, Dunn County, Wisconsin.

Filed this ____ day of _____, 2016

Don Heit, Chairman

John Miller, Supervisor 2

Dennis Weber, Supervisor 1

Sally Rasmussen, Clerk