

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE XXXIV APPENDIX “A” OF THE MUNICIPAL CODE (ZONING ORDINANCE) OF THE CITY OF YORK, YORK COUNTY, NEBRASKA BY CHANGING WELLHEAD PROTECTION AREA TO WPO WELLHEAD PROTECTION OVERLAY DISTRICT; TO PROVIDE DESCRIPTIONS AND REGULATIONS; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, YORK COUNTY, NEBRASKA:

Section 1. Approval of Amendment to Zoning Regulations. On _____, 2016, the York Planning Commission conducted a public hearing on the matter of amending the Zoning Ordinance by adding language in Article XXXIV pertaining to Wellhead Protection Overlay District regulations and reported to the City Council that it recommended approval of the zoning changes. On _____, 2016, the City Council held a public hearing on said proposed amendment and found and determined that said proposed changes to the Zoning Ordinance are advisable and in the best interests of the city. The City Council further found and determined that public hearings were duly held and notices were duly given. The City Council hereby approves said proposed changes and amendment to the York Zoning Ordinance.

Section 2. Amendment to Zoning Ordinance. Pursuant to the York Zoning Ordinance, Article XXXIV is hereby amended to read as follows:

ARTICLE XXXIV - WPO WELLHEAD PROTECTION OVERLAY DISTRICT

Sec. 1. INTENT: The intent of this district is to protect the public water wells in the jurisdiction of York. In order to provide protection for such wells, and maintain the health, safety, and general welfare of York residents, the regulation of land uses having the potential for contamination of groundwater sources is necessary within a specified boundary area surrounding said wells. The Wellhead Protection Plan has identified the area of protection. An area used in the plan includes the area delineated by the Nebraska Department of Health and Human Services. This area is required by Title 179 of the Nebraska Administrative Code to protect the municipal water supply from microbiological contamination within a calculated one (1) year time of travel for groundwater flow. Other areas include areas within a twenty-four (24) hour time of travel for surface water, areas near the well field where surface run-off can have a significant potential for surface contamination, and areas where development review and control is necessary to ensure proper control of run-off. The Wellhead Protection Overlay District establishes performance standards to protect the integrity of York’s well fields including regulations related to the ability of contamination in the area to affect the quality of the city’s water supply.

Sec. 2. DEFINITIONS:

- A. Wellhead Protection Area – means the surface area surrounding a water cell or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or wellhead.

Sec. 3. PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT: Prior to making such application and approval of any application of this district to any lands within the city by the City Council, the city shall first comply with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1505 through 46-1509). These requirements include, but are not limited to the following:

- A. Delineation and Approval of the Wellhead Protection Area by the Nebraska Department of Environmental Quality,
- B. Completion and mapping of an inventory or potential contamination sources within the Wellhead Protection Area,
- C. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,

- D. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program,
- E. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the wellhead Protection Area,

Sec. 4. **LIMITATION ON APPLICATION OF THIS DISTRICT:** This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of any such officially approved Wellhead Protection Areas do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-field determination of such boundaries.

Sec. 5. **AMENDMENT OF OFFICIAL ZONING MAP:** Whenever the requirements of Section 3 have been complied with and the City Council has approved the application of this overlay zoning district on land within the city's jurisdiction, in accordance with the procedures for amendment of the Official Zoning Map set forth in this Ordinance, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

Sec. 6. **ALLOWABLE USES AND STRUCTURES:** Any use or structure indicated as an allowable use, a permitted use, a special use, or an accessory use in the primary zoning district to which this overlay district is applied shall be allowed or permitted in accordance with the zoning requirements of the primary zoning district, except when specifically prohibited in Section 8, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 9 of this Article.

Sec. 7. **MINIMUM LOT REQUIREMENTS:** The minimum lot requirements as set forth on the primary zoning district shall apply within this overlay district, according to the location of each primary zoning district. Such requirements include lot area, lot width and frontage, setback requirements, and height restrictions.

Sec. 8. **PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not permitted in the underlying district either as a permitted use, special use, or accessory use are prohibited. Furthermore, the following uses and /or structures shall be specifically prohibited:

- A. Commercial feed lots, except those confined feeding operations permitted by NDEQ.
- B. Livestock auction sale yards.
- C. Sludge and waste application and stockpiling from livestock operations or municipal waste, unless allowed in the underlying district and is reviewed and approved by the NDEQ, NRD and City by special use.
- D. Landfills not properly permitted by NDEQ and EPA.
- E. Commercial mines, quarries, sand and gravel pits, unless allowed in the underlying district and is approved by NDEQ, EPA, NRD and City by special use.

Sec. 9. **WELLHEAD PROTECTION REQUIREMENTS:** The minimum well setback distances established in Nebraska Title 179, Chapter 7 (effective April 4, 2010) shall apply. In addition, the following restrictions shall apply to uses within any area of land on which this overlay district is applied. In cases where there are conflicting setbacks, the stricter of the two shall apply.

- A. Storage of gasoline, diesel fuel, fuel oil or other similar bulk petroleum fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Titles 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage of gasoline or diesel fuel in excess of one-thousand one-hundred (1,100) gallons per aboveground storage tank or five hundred (500) gallons per underground storage tank, or two-thousand five-hundred (2,500) gallons total of all tanks shall be prohibited, except when a special use for a commercial or industrial use is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Titles 126 and 129.

- B. Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.
- C. No fuel storage, except when associated with Item B (above) shall be permitted within five-hundred (500) feet of any water well protected under this overlay district.
- D. No septic tank or tile field or waste lagoon, or man-made or constructed earthen water storage (including irrigation re-use pits) associated with any residential, commercial, industrial, agricultural, or other type of use shall be permitted within five-hundred (500) feet of any water well protected under this overlay district.
- E. Any development must be connected to City water services if such services are available within five hundred (500) feet of the site. For properties further than 500' from a city main all new wells shall be installed in accordance with Title 178 of the Nebraska Administrative Code. Well installation further requires the approval of both the City's Director of Public Works/Utilities and the appropriate State of Nebraska regulatory agencies.
- F. Domestic, irrigation and any other water well shall not be located closer than one-thousand (1,000) feet to any water well protected under this overlay district.
- G. All storage tanks permitted by this Section shall be operated safely and maintained in an operable and serviceable condition as per Department of Environmental Quality and Fire Marshall's regulations. All storage tanks with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit issued by the Public Works Department before being placed into service.
- H. Storage of fertilizers, herbicides, pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a special permit use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 121, 126, 128, 159 and 198, administered by the Nebraska Department of Environmental Quality and other agencies.
- I. Any application of fertilizers, pesticides, or herbicides to the land or crops through an irrigation system (chemigation) shall comply with the rules and requirements of Title 195.
- J. If any land area contained within a wellhead protection overlay district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the Upper Big Blue Natural Resources District.

K. Specified well setback distances according to Nebraska Title 179, Chapter 7 (April 4,2010):

<u>Category/Use</u>	<u>Distance (Feet)</u>
Water well	1,000
Sewage lagoon	1,000
Land application of municipal/industrial waste material	1,000
Feedlot or feedlot runoff	1,000
Underground disposal system (septic system, cesspool, etc.)	500
Corral	500
Pit toilet/vault toilet	500
Wastewater holding tanks	500
Sanitary landfill/dump	500
Chemical or petroleum product storage	500
Sewage treatment plant	500
Sewage wet well	500
Sanitary sewer connection	100
Sanitary sewer manhole	100
Sanitary sewer line	50

These distances may be amended from time to time by the Nebraska Department of Health and Human Services, Rules and Regulations, Title 179, Chapter 22-005, Item 5. To the extent that the Nebraska Department of Health and Human Services amend said distances, then the stricter of the two distances shall apply until these regulations are amended.

Sec. 10. SPECIAL USE PERMITS: Uses identified herein may be used or expanded in the WPO Wellhead Protection Overlay District if a Special Use Permit for such use has been obtained pursuant to the following provisions:

- A. The Special Permit provisions within the Zoning Regulations must be complied with.
- B. Municipal Review: The planning commission and governing body shall be notified by the York City Administrator or his/her designee of any application for a Special Use Permit within the respective wellhead protection area.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS _____ DAY OF _____, 2016.

CITY OF YORK

Mayor

ATTEST:

City Clerk