

## **INSTITUTIONAL CONTROL AREA**

### **§ 52.165 CONTAMINATED GROUNDWATER; FINDINGS AND INTENT.**

(A) The City Council finds and determines that certain contaminants have, for many years, existed in certain areas of the groundwater in and near the city, and that certain legislation is necessary and appropriate for the purpose of supplementing the various measures undertaken by the city and others, aimed at reducing or eliminating the possibility that humans will come into contact with such contaminants.

(B) It is the intention of the city that existing water wells within the area where contaminated groundwater exists, which area shall be hereafter known as the city's institutional control area, shall be allowed to remain in existence only if reasonable safeguards are implemented so that there is no reasonable likelihood of human contact with the contaminants in the groundwater.

(C) It is the intention of the city that owners of existing water wells (i.e., domestic, irrigation and the like) within the area where contaminated groundwater exists shall be notified that such condition exists and imposes a potential health risk.

(D) It is also the intention of the city that no new water wells shall be installed within the city's institutional control area.

(Prior Code, § 52.141)

### **§ 52.166 CONNECTION TO PUBLIC WATER SYSTEM REQUIRED; DOMESTIC WATER WELLS ALLOWED UNDER CERTAIN CIRCUMSTANCES.**

(A) It shall be unlawful to operate or maintain any domestic water well within the city's institutional control area, except as provided hereinafter.

(B) Any existing drinking water well within the city's institutional control area on the effective date of this subchapter may remain in use so long as the water, either at the wellhead, or after point of use treatment, meets the drinking water standards established by Title 179, Neb. Admin. Code, Ch. 2, § 002.

(C) Any existing drinking water well within the city's institutional control area shall be exempt from the requirement to connect to a public water supply main so long as the well is operable. At such time as replacement of such well is necessary, or ownership of said property is sold, the property shall become subject to this section, and the property owner shall make the application to the city for connection to the public water supply.

(D) The city shall not issue a building permit for any new structure within the city's institutional control area until it is satisfied that the water service to such structure will be connected to the public water supply.

(E) All point of use treatment devices shall be installed and maintained at the expense of the property owner; provided, that nothing herein shall prevent the property owner from pursuing damages or other relief from any party responsible for contamination of groundwater available to the property owner.

(Prior Code, § 52.142) Penalty, see § 52.999

### **§ 52.167 DECLARATION OF THE CITY'S INSTITUTIONAL CONTROL AREA.**

The controls described herein shall apply within the bounds of the city's institutional control area, which boundaries are hereby defined as follows: An area bounded by Mahood Drive/24th Street on the north, Loup River on the south, 33rd Avenue on the west and 16th Avenue on the east.

(Prior Code, § 52.143)

### **§ 52.168 REGISTRATION OF EXISTING WATER WELLS WITHIN THE INSTITUTIONAL CONTROL AREA.**

Within 60 days after the effective date of this subchapter, all existing water wells within the city's institutional control area, other than public water supply wells and EPA or state-approved monitoring or response action wells, shall be in compliance with this subchapter and registered and in the office of the Public Works Department. There shall be no fee for registering an existing well.

(Prior Code, § 52.144) Penalty, see § 52.999

### **§ 52.169 REGISTRATION OF EXISTING WATER WELLS; INFORMATION REQUIRED.**

The following information shall be furnished in connection with registering all existing water wells within the city's institutional control area on the effective date of this subchapter:

(A) The name and address of the person owning the real estate upon which the well is located;

(B) The address and legal description of the property on which the well is located;

(C) The address of all properties being served by groundwater pumped from the well;

(D) A description of the uses of the water pumped from the well. The application shall state whether the groundwater is being, or will be, used for human consumption including, but not limited to, drinking, cooking, washing or other household uses;

(E) The location of the nearest public water main to the property served by the well;

(F) The depth of the well; and

(G) An accurate diagram showing the location of the well in respect to the boundaries of the property, the nearest street, road or highway intersection and any on-site septic or waste disposal system.

(Prior Code, § 52.145) Penalty, see § 52.999

#### **§ 52.170 REQUIRED WARNING SIGNS IN THE INSTITUTIONAL CONTROL AREA.**

(A) Every owner of real estate located within the city's institutional control area upon which a well is now or may hereafter be located shall conspicuously post and maintain a warning sign on or near such well and at all water service points where water may be obtained from said well for human consumption.

(B) The warning sign shall, at a minimum, bear the following wording: "Warning. This water is not for human consumption." The signs will be uniform in appearance and shall be designed and produced by the Director. The cost of such sign shall be borne by the city.

(C) The foregoing sign requirement shall not apply to a domestic water well or a service point which meets the special exception provisions of § 52.166 of this code.

(Prior Code, § 52.146) Penalty, see § 52.999

#### **§ 52.171 NUISANCE.**

(A) All wells within the city's institutional control area which do the following are hereby declared to be a public nuisance:

(1) Are not registered or permitted as required by this subchapter;

(2) Produce contaminated water which is made available in any way for human consumption; or

(3) Provide a conduit for contamination into the aquifer for any reason, such as being in a state of disrepair, or the manner in which the well was constructed.

(B) These public nuisance wells shall be immediately brought into compliance with this subchapter or decommissioned at the owner's expense in accordance with all local, state and federal rules and regulations governing the decommissioning of wells.

(Prior Code, § 52.147) Penalty, see § 52.999

#### **§ 52.172 PROHIBITED ACTS.**

(A) It shall be unlawful to fail to register any well as required by this subchapter.

(B) It shall be unlawful for a person to fail to erect or maintain any warning sign required by the terms of this subchapter.

(C) It shall be unlawful for any person to install a well within the city's institutional control area without filing a registration with the city.

(Prior Code, § 52.148) Penalty, see § 52.999

#### **§ 52.173 VIOLATION.**

(A) Any person found to be in violation of this subchapter will be fined in an amount not to exceed the amount set in § 52.999(B). Each day that the violation continues, shall be deemed to be a separate and distinct offense.

(B) In the event that the city determines that any well is a nuisance within the meaning of § 52.172 of this code, it shall send a written notice to the owner by certified mail, return receipt requested, notifying the addressee of the violation. The written notice shall contain the following information:

(1) The street address and legal description sufficient for identification of the premises on which the well is located;

(2) A brief and concise description of the acts or circumstances constituting the nuisance;

(3) A brief and concise description of the corrective action required to be taken to eliminate the nuisance; and

(4) A brief and concise statement advising the addressee that if the nuisance is not remedied within seven days after receipt of the certified letter, the city will request the City Attorney to file an action to abate the public nuisance.

(C) If the addressee of the notice referred to above fails to abate said nuisance within the time specified, the City Attorney shall, upon the request of the Mayor and City Council, proceed to abate said public nuisance pursuant to this code and take all steps to have the costs of said action assessed against the owner or the real estate upon which the well is located.

(D) In the event the use of the groundwater in violation of this subchapter might cause irreparable harm or pose a threat to public health, safety or welfare, the written notice to abate as set forth above, shall not be required as a condition precedent to commencing a legal action to obtain abatement of the nuisance. The city, upon the request of the Mayor and

City Council, shall immediately file an action requesting such temporary and permanent orders as are appropriate to expeditiously and permanently abate said public nuisance and protect the public health, safety and welfare.

(Prior Code, § 52.149) Penalty, see § 52.999

**§ 52.999 PENALTY.**

(A) Whoever violates any provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99.

(B) Any person found to be in violation of §§52.165 through 52.173 will be fined in an amount not to exceed \$100. Each day that the violation continues shall be deemed to be a separate and distinct offense.

(C) Any person who shall continue any violation beyond the time limit provided for in §52.010 shall be guilty of a misdemeanor, and a conviction shall be fined in the amount not exceeding \$250 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(Prior Code, § 52.998)