

## 5.9 WHP WELLHEAD PROTECTION DISTRICT (OVERLAY)

**5.91 INTENT:** The Wellhead Protection Overlay District is intended to assist municipalities that maintain and operate public water wells in the County, which serve municipalities within or adjoining Gage County. In addition, this overlay district assists rural water districts maintaining and operating semi-public water wells in the County that serve rural areas and municipalities within Gage County, as well as neighboring counties. In order to provide protection for such wells, and to maintain the health, safety and general welfare of Gage County residents, the regulation of land uses having the potential for contamination of groundwater source(s) is necessary within a specified boundary area surrounding said wells.

**5.92 PREREQUISTE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT:** Prior to the application of this district to any lands in Gage County, the municipality or rural water district which maintains and operates water supply wells within the County shall make application to the County seeking application of this district to specified lands within the County. Prior to making such application and approval of any application of this district to any lands within the County by the County Board, the municipality or rural water district making such application shall have first complied with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. §§46-1501 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,
5. 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,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area,
7. Willingness to execute an interlocal agreement with Gage County for the administration and enforcement of the regulations of this Wellhead Protection District; willingness to accept the regulations set forth in this District; willingness to pay any administrative fees to the County to which the parties involved agree; willingness to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.
8. *Willingness to participate in the Special Use Permit process pursuant to Section 5.99.*

**5.93 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.

**5.94 AMENDMENT OF OFFICIAL ZONING MAP:** Whenever the requirements of Section 5.92 of this Article have been complied with and the County Board has approved the application of this overlay zoning district on land within the County, in accordance with the procedures for amendment of the Official Zoning Map set forth in this resolution, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

**5.95 ALLOWABLE USES AND STRUCTURES:** Any use or structure indicated as an allowable use, a permitted use, a conditional 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 by Section 5.97 of this Article, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 5.98 of this Article.

**5.96 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.

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

1. The expansion of existing or development of new livestock confinement facilities/operations of more than 299 animal units *without a Special Use Permit pursuant to Section 5.99.*
2. Landfills and other types of waste handling facilities.
3. Commercial or industrial uses which utilize or generate any materials determined by the United States Department of Environmental Protection as hazardous materials, including commercial or industrial uses which store petroleum products, agricultural chemicals, anhydrous ammonia or other fertilizers in excess of fifty (50) gallons.
4. Domestic, irrigation and any other water wells closer than one-thousand (1,000) feet to the water wells being protected in this Wellhead Protection District.

**5.98 WELLHEAD PROTECTION RESTRICTIONS:** The following restrictions shall apply to uses within any area of land on which this overlay district is applied:

1. The expansion of existing or development of new livestock confinement facilities/operations of 299 animal units or less shall conform to the requirements of Section 6.4.
2. On farm 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 shall be prohibited.
3. Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30.
4. No fuel storage, except when associated with Item 3 (above) shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.
5. No septic tank or tile field associated with any residential, commercial, industrial, or other type of use shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.
6. 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.
7. All storage tanks permitted by Section 5.98 shall be operated safely and maintained in an operable and serviceable condition.

**5.99 SPECIAL USE PERMITS:** *A building or premises may be used for the expansion of existing or development of new livestock confinement facilities/operations of 300 animal units or more in the WHP Wellhead Protection District if a Special Use Permit for such use has been obtained pursuant to the following provisions:*

1. ***Compliance With Article 6:*** *The Special Use Permit provisions of Article 6, Sections 6.1, 6.2, and 6.4 must be complied with.*
2. ***Municipal Review:*** *The municipality receiving the benefit of the WHP Wellhead Protection District shall be notified by the Gage County Zoning Administrator of any application for a Special Use Permit within their respective wellhead protection area with a request for their recommendations to be submitted to the Planning Commission. The Planning Commission shall not take final action on the application prior to receiving recommendations from such municipality. If no recommendation is received within ten (10) business days, the application shall be deemed approved by such municipality. Such municipality shall also be present at and participate in the discussion on the application at Public Hearings before the Planning Commission and County Board.*

**5.910 PERMITS AND INSPECTIONS:** All storage tanks permitted by Section 5.98(2) with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit before being placed into service. There shall be no fee for said permit, which shall be acquired from the Zoning Administrator. The Zoning Administrator, County Emergency Manager, or their designee shall inspect all storage tanks located within a Wellhead Protection District that have a capacity of at least three hundred (300) gallons no less than once every two (2) years for compliance with the provisions of this Article.