

WELLHEAD PROTECTION ORDINANCE
ON AGENDA FOR JANUARY 2, 2007

A RESOLUTION PROPOSING THAT A PUBLIC HEARING BE HELD ON THE SUBJECT OF AMENDING THE ZONING ORDINANCE OF THE TOWN OF MILLSBORO, SUSSEX COUNTY, DELAWARE, CHAPTER 210, BY ADDING A NEW ZONING DISTRICT, "WELLHEAD PROTECTION OVERLAY DISTRICT" TO §210-8; AND BY ADDING A NEW SECTION TO BE DESIGNATED §210-23. "WELLHEAD PROTECTION OVERLAY DISTRICT" AND ADDING REQUIREMENTS AND REGULATIONS THEREFOR.

WHEREAS, the Town Council, as part of its implementation of its Comprehensive Plan, has determined that it is in the best interest of the Town to add regulations for a new overlay zone to protect public water supply for the Town of Millsboro from land uses which pose a threat to the quality and/or quantity of the ground water; and

WHEREAS, the Town Council deems it necessary to include the proposed new overlay district, "Wellhead Protection Overlay District", to the list of zoning districts in the Zoning Code; and

WHEREAS, 22 Del. C. §304 provides that any amendment to any zoning ordinance shall be after a public hearing following fifteen (15) days' notice thereof by publication in an official paper or a paper of general circulation within the municipality.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Millsboro, in session met, a quorum pertaining at all times thereto, that a Public Hearing shall be held on **Tuesday, January 2, A.D. 2006**, at 7 o'clock in the evening, prevailing time, in the Municipal Building, Mitchell Street and Wilson Highway, Millsboro, Sussex County, Delaware, to consider amending the Zoning Ordinance of The Town of Millsboro, Chapter 210, as follows:

ITEM 1:

ARTICLE III, Zoning Districts and Zoning Map, §210-8, Zoning Districts, be and is hereby amended by adding a new district so that the section will read as follows:

§210-8. Zoning Districts.

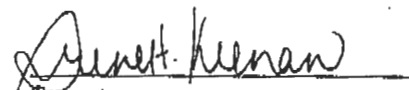
Abbreviation	Name
WP	Wellhead Protection Overlay

ITEM 2:

ARTICLE IV, Districts Regulations, be and is hereby amended by adding a section to be designated "210-23. Wellhead Protection Overlay District" to read as attached hereto and incorporated herein by reference on *Exhibit A*.

AND BE IT FURTHER RESOLVED that the Town Manager be and she is hereby authorized and directed to cause a Notice which shall consist of a true copy of this Resolution by title to be published in SUSSEX POST, a newspaper of general circulation in The Town of Millsboro, at least fifteen (15) days prior to the date set forth in this Resolution for the Public Hearing.

I, RENE H. KEENAN, Secretary of the Town Council of The Town of Millsboro, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the Town Council at its Regular Meeting held on 12-4-2006, 2006, at which a quorum was present and voting throughout and that the same is still in full force and effect.


Secretary

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§210-23. Wellhead Protection Overlay District

- A. Purpose. The purpose of the Wellhead Protection Overlay Zone is to protect the public drinking water supply in the Town of Millsboro from land uses which pose a threat to the quality (and/or quantity) of the ground water being extracted from wells which serve public water systems.
- B. Applicability. This section applies to all land uses located or proposed within the area delineated as the Wellhead Protection Overlay Zone on the official zoning map of the Town of Millsboro.
- C. Establishment of districts. The Wellhead Protection Overlay Zone consists of three (3) districts:

(1) District: Immediate Recharge Area

- (a) Land located within the "Wellhead Areas" as classified in the Millsboro Comprehensive Plan, adopted May 2004 (Map 2 – Environmental Features), and may be amended as new municipal well site are constructed or proposed.

(2) District: Primary Recharge Area

- (a) Land located within the "Excellent Recharge Areas" as classified in the Millsboro Comprehensive Plan, adopted May 2004 (Map 2 – Environmental Features).
- (b) This District may include aquifer areas identified as potential new municipal well sites by a Delaware Certified Geologist using accepted Hydrogeologic techniques.

(3) District: Secondary Recharge Area

- (a) Land located within the "Good Recharge Areas" as classified in the Millsboro Comprehensive Plan, adopted May 2004 (Map 2 – Environmental Features).

- D. Land Uses. The following Wellhead Protection Overlay Zone Table supplements the uses permitted by district regulations. Where a land use is not permitted in the underlying zoning district the use is not permitted. Where a land use is permitted in underlying zoning district, the Wellhead Protection Overlay Zone Table shall control.

(1) KEY:

Y = permitted

n = not permitted
 SP = permitted subject to Site Plan Review and use of Best Management Practices

**WELLHEAD PROTECTION ZONE OVERLAY ZONE
 TABLE OF POTENTIAL SOURCES OF CONTAMINATION**

Uses	District Immediate	District Primary	District Secondary
1. abandoned wells ^o	n	n	n
2. agricultural chemical spreading, spraying	n	SP ¹	SP ¹
3. agricultural chemical storage	n	SP ¹	SP ¹
4. airport fire fighter training areas	n	n	SP
5. airport fueling areas	n	n	SP
6. airport maintenance	n	n	SP
7. auto chemical supplies wholesalers	n	SP ³	SP
8. auto repair	n	SP ³	SP
9. auto washes	n	SP ²	SP
10. beauty salons	n	SP	SP
11. boat builders, refinishers	n	SP ³	SP
12. body shops	n	SP ³	SP
13. chemical reclamation	n	n	n
14. chemical bulk storage	n	n	SP
15. concrete, asphalt, tar, coal companies	n	SP	SP
16. construction sites/demolition activities	SP	y	y
17. covered salt or sand/salt piles	n	SP	SP
18. demolition of uses listed in this table	SP	SP	SP
19. dry cleaners	n	SP ³	SP
20. feed lots	n	n1	SP ¹
21. fertilized fields, agricultural	n	SP ¹	y
22. food processors	n	SP ³	SP
23. fuel distributors, fuel storage	n	SP ³	SP
24. furniture strippers	n	SP ³	SP
25. gas stations, service stations	n	SP ³	SP
26. golf courses	n	SP	SP
27. parks	SP	SP	y
28. graveyards	n	SP	y
29. hazardous or special waste disposal	n	n	SP
30. heat treaters, smelters, annealers,	n	n	SP

descalers			
31. heating oil storage (consumptive use)	n	y	y
32. industrial manufacturers	n	SP ³	SP
33. industrial waste disposal	n	n	n
34. junk, salvage yards (including tire storage)	n	n	n
35. landfills, dumps	n	n	n
36. transfer stations and recycling facilities	n	SP ³	SP
37. laundromats	n	SP ²	SP
38. machine shops	n	SP ³	SP
39. manure piles	n	SP ¹	SP ¹
40. meat packers, slaughter houses, abattoirs	n	SP ²	SP
41. medical, dental, vet offices	n	SP	SP
42. metal plating/electroplating	n	n	SP ³
43. nurseries (horticultural)	n	SP	SP
44. oil pipelines	n	n	SP
45. painters, finishers	n	SP ³	SP
46. pesticide, herbicide, wholesalers or retailers	n	SP ³	SP
47. pesticide, herbicide bulk storage	n	n	SP
48. photo processors	n	SP ^{2 or 3}	SP
49. printers	n	SP ^{2 or 3}	SP
50. railroad yards	n	SP ³	SP
51. research laboratories	n	SP ^{2 or 3}	SP
52. residential homes	n	y	y
53. rust-proofers	n	SP	SP
54. open salt or sand/salt piles	n	n	SP
55. sand and gravel, mining, other mining	n	SP	SP
56. sludge utilization	n	n	SP
57. small engine repair shops	n	SP	SP
58. snow dumps	n	n	SP
59. stormwater impoundment	n	SP ³	SP
60. subdivisions	4	4	4
61. transportation corridors including rail	n	SP	SP
62. truck terminals	n	SP ³	SP
63. utility corridors	n	SP	SP
64. wastewater impoundment areas	n	n	SP
65. wastewater treatment plants	n	SP	SP
66. wood preserving operations (commercial)	n	n	SP

¹ Existing agricultural operations may continue if using State approved BMP's.

² If connected to public sewer system which is in compliance with state and federal law and regulations.

³ Limit size (limits should be based on municipal needs.)

⁴ Shall be reviewed under subdivision regulations (ordinance) to insure that ground water quality

meets the preliminary and secondary drinking water standards at the property line.

⁵ Must comply with BMP established by DNREC.

⁶ Wells must be filled with inert, compact natural soil material and all piping removed.

E. Lot specifications.

- (1) Residential housing shall have densities as required in the table below.

<u>District</u>	<u>Land Area Per Dwelling Unit</u>
Immediate	120,000 sq. ft.*
Primary	80,000 sq. ft.*
Secondary	as in underlying district

* If the dwelling is served by public water and sewer the minimum lot size in the underlying district shall apply.

- (2) For other non residential developments, the lot size shall be as required for the underlying district, and the percentage of the lot which can be covered by impermeable surfaces, including parking areas, shall be limited as presented in the following table.

<u>District</u>	<u>Maximum Lot Coverage</u>
Immediate	30%
Primary	50%
Secondary	50%

F. Application requirements. All uses requiring site plan review as indicated in the Table of Potential Sources of Contamination shall be required to provide the following information in addition to the site plan or subdivision requirements established in the Zoning Code and the Subdivision Code. All applications shall contain the following information.

- (1) Written information:

- (a) name of development; municipality; tax map and lot numbers
- (b) owner and applicant's names and addresses; name and addresses of person who prepared plan

- (c) name and address to where correspondence should be sent
 - (d) If applicant is a corporation, state whether the corporation is licensed to do business in Delaware.
 - (e) copy of deed for property; verification of ownership or legal interest
 - (f) interest the applicant has in any property abutting the parcel to be developed
 - (g) state whether the development covers the entire or contiguous holdings of applicant
 - (h) location of property: book and page
 - (i) location of property: map and lot
 - (j) on-site sewage disposal report from licensed site evaluator or information from the Town engineer indicating sewer capacity
 - (k) special reports including soils, engineering design, erosion and sediment control plan, stormwater management plan, long term maintenance provisions
 - (l) traffic and parking assessment
 - (m) hydrogeological assessment
 - (n) necessary state and/or federal permits and date of application
 - (o) list of construction items, cost estimates
 - (p) construction schedules
 - (q) proposed method of performance guarantee
 - (r) restrictions, conditions, covenants and easements
- (2) Plan information:
- (a) existing and proposed streets
 - (b) outline of development and remaining portion of portion
 - (c) scale; written and graphic; date; north point

- (d) perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; abutters names)
- (e) lot lines, numbers and sizes; building setback lines
- (f) existing water bodies, watercourses, wetlands, and other significant natural features
- (g) public and private rights-of-way and easements- zoning boundaries
- (h) location of test pits keyed to site evaluator's or soil scientist's report
- (i) base flood evaluation, if applicable
- (j) written request for waivers or variances
- (k) location and design of culverts, drains and other storm water control structures, existing and proposed
- (l) location and design of proposed sewers and water lines
- (m) typical engineering plan, profiles, and cross-sections
- (n) medium intensity - or high intensity soils maps
- (o) location of parking, open space, conservation and/or recreation areas
- (p) landscaping plan
- (q) surface drainage plan
- (r) soil erosion and sedimentation control features
- (s) landscaping details
- (t) locations, dimensions and profiles of underground utilities
- (u) profile and typical cross-sections of streets and other public works
- (v) location/identification of buffers, lots or areas to be restricted or dedicated for common or public use

G. Additional application requirements for site plan review for certain activities within the Wellhead Protection Overlay Zone. Sections G.1 - G.5 present additional information needed for applications for Site Plan Review for certain types of activities within the Wellhead Protection Overlay Zone. These Sections include categories which apply to the land uses (Potential Sources of Contamination) in Section D. Uses are grouped by category. More than one of the categories may apply to a particular use. (Applicants should request assistance from the Code Enforcement Officer should there be questions as to which categories apply).

(1) Construction/Demolition Activity. (This category applies to the majority of applications). Even though construction activity is generally permitted, the Town needs additional information for construction or demolition of the uses listed.) On "Potential Sources of Contamination" table, these activities include #17 and #18, as well as construction or demolition of most of the other items in the table. Additional land uses may also fall under this category. The following is required:

- (a) provisions for solid waste handling, storage and disposal
- (b) provisions for sanitary facility
- (c) an engineering report which provides:
 - [1] information concerning storage and disposal of waste materials
 - [2] provisions for fuel storage and refueling
 - [3] provisions for storage of any liquid chemicals used in the construction process
 - [4] provisions for storage of any bulk chemicals used in the construction process

2. Stormwater Management. (This category includes items 59 and 60 from the table in Section D, but may also be associated with several additional items on the table or with activities not included on the table.) The following engineering calculations are required:

- (a) design and capacity of subsurface collection facilities
- (b) design of dry wells, storage, retention or detention facilities and other surface water impoundments
- (c) stormwater system outlets

- (d) delineation of post development drainage areas
 - (e) plans for ice control, use of road salt, and snow removal
- (3) Other information. Engineering calculations and plans which provide:
- (a) design and capacity of subsurface collection facilities
 - (b) design of dry wells, storage, retention or detention facilities and other surface water impoundments
 - (c) stormwater system outlets
 - (d) delineation of post development drainage areas
 - (e) plans for ice control, use of road salt, and snow removal
 - (f) description of source of water, use of water and final water quality (water quality parameters to be specified by applicant)
 - (g) amount of consumptive water use
- (4) Hazardous Materials and Other Chemicals: Handling and Storage (This section pertains to any commercial site where chemical compounds are handled and/or stored.) These activities may include items 1, 2, 4, 6, 10, 12, 13, 15, 19, 23, 24, 25, 26, 28, 30, 31, 32, 34, 40, 43, 45, 46, 47, 50, 52, 53, 54, 62, 65
- (a) Type of volume of chemical compounds handled and/or stored.
 - (b) Site plan showing all storage, handling and use areas for raw materials and wastes.
 - (c) For outside areas, details to contain spills including drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site.
 - (d) provisions to collect chemicals should they enter the drainage system.
 - (e) provisions to segregate underground systems to insure that there are no cross connections.
 - (f) statement of emergency measures which can be implemented for surface drainage systems.

- (g) For inside areas, details to contain spills including the:
- [1] design of dikes around rooms;
 - [2] the location of floor drains and floor drain outlets;
 - [3] the location of separators, holding tanks and/or drain outlets.
 - [4] the specific location and design of underground storage structures.
 - [5] the location and design of piping systems for wash waters and other waste liquids to insure that inappropriate wastes are discharged and that wastes are discharged to appropriate sewers or treatment systems.
 - [6] A spill prevention and control and countermeasure [SPCC] plan detailing:
 - [a] materials and equipment to be available
 - [b] a training plan and schedule
 - [c] a list of contacts (EPA, DNREC, and/or local fire officials) with phone numbers
 - [d] an inspection schedule
 - [e] A report by an industrial engineer or other competent professional detailing:
 - {1} steps which have been taken to reduce the use of hazardous materials;
 - {2} actions which have been taken to control the amount of wastes generated.
 - {3} any reports to provide information on the design theory or methodology for the above features
- (5) Petroleum Handling and Storage. This section pertains to sites where petroleum products (fuels, solvents and lubricants) are handled in bulk quantities of over 1,000 gallons) These activities may include items 4, 23, 24, 26, 31, 65 and others from the table in Section D. For the use of petroleum products for machinery or equipment maintenance, or for

quantities stored in smaller quantities such as 55 gallon drums, reference should be made to the Chemical Storage and Handling category.

- (a) Site plan showing storage, handling and use areas for all petroleum products.
- (b) Provisions for heating oil storage.
- (c) For outside areas, details which provide drainage and contour information to prevent the flow of runoff from entering the storage area and to prevent leaks or spills from flowing into surface waters or to areas where they could leach into ground water.
- (d) Provisions to contain and clean-up petroleum products should they enter the drainage system.
- (e) separators for underground piping systems
- (f) emergency measures which can be implemented for open drainage systems
- (g) Exact location of tanks, piping and separators so that inspection, detection, clean-up or other emergency measures can be accomplished in a timely efficient manner.
- (h) A plan detailing:
 - materials and equipment to be available;
 - [1] a training plan and schedule;
 - [2] a list of contacts (local fire officials, DNREC) with phone numbers
 - [3] the inventory recording method and an inspection schedule.
 - [4] a design of the containment system for the bulk storage tanks prepared by a Professional Engineer registered in the State of Delaware.
 - [5] a hydrogeological report. The hydrogeological report will vary in scope depending on the general nature of the geology, the size and design of the facility, and the need for ground water monitoring. At a minimum, the hydrogeologic report should characterize the geology, determine the ground water gradients, and analyze the potential for ground water degradation from the activity.

The analysis should contain a list of potential threats and recommend methods of controlling those threats.

- (6) Sewage Disposal and Subsurface Injection. (This section pertains to subsurface injection activities as defined by State regulations and including septic systems and other on-site sewage disposal) These activities include land use #29 from the Table in Section D. Additional land uses may also fall under this category.
- (a) provisions for sewage disposal including:
 - (b) soil evaluator's report and septic system design
 - (c) in Immediate and Primary Districts for sites/uses producing more than 1,000 gallons of sewage, a hydrogeologic analysis of nitrate concentrations at the property line
 - (d) in Secondary District, for sites/uses producing more than 2,000 gallons of sewage, a hydrogeologic analysis of nitrate concentrations at the property line
 - (e) in Immediate and Primary Districts, evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.
 - (f) provisions and designs for all floor drains, grease traps, and holding tanks
- (7) Other Water Supplies. (This section pertains to all surface water or groundwater supplies other than domestic wells.) Other water uses (except domestic) may also be included in this category. A hydrogeologic report identical to that required for State approval of new water supply is required.
- (8) Installation of Monitoring Wells. (This Section pertains to all monitoring or observation wells.) Other activities may also include or require monitoring wells.
- (a) location and construction specifications
 - (b) intended purpose
 - (c) sampling schedule

- (d) provisions for informing appropriate Town body of sampling results

H. Control of existing threats.

- (1) The Code Enforcement Officer shall have the right to enter and inspect all premises which carry on the uses listed in the preceding table and requiring Site Review due to their location in one of the Wellhead Protection Districts. The Code Enforcement Officer may be accompanied by other representatives of the Town including a consultant employed by them. Further, the Code Enforcement Officer shall have the right, upon 24 hour notice, to conduct such testing as the Town may deem appropriate to determine that Best Management Practices and groundwater pollution control devices are in good condition and are working properly. Such testing shall be at the Town's expense. If such testing indicates that the groundwater has been contaminated above the State Primary or Secondary Drinking Water Standards, then further testing shall be at the expense of the existing owner of the land in question. Additionally, the owner shall reimburse the Town for expenses incurred in the initial well installation and testing.
- (2) The Town shall have the right to install groundwater monitoring wells and shall further maintain the right to sample such wells on properties within the Wellhead Protection Districts when the Town can clearly show that groundwater monitoring in the area will serve to protect the public water supply from existing or potential threats as listed in the preceding table (or for the alternative table: for uses requiring a Site Review in the preceding table). Should the Town and/or DNREC determine that such a monitoring well is necessary to monitor an existing threat to public water supply, the Town may require the property owner install such a monitoring well at the property owners expense.
- (3) Uses listed in the preceding table shall install the Best Management Practices as required and modified and updated by the Delaware Department of Natural Resources and Environmental Control.