

ORDINANCE NO. 2010-22

AN ORDINANCE OF THE CITY OF OLDSMAR, FLORIDA TO BE KNOWN AS THE CITY OF OLDSMAR AQUIFER/WELLHEAD PROTECTION ORDINANCE; RELATING TO AQUIFER/WELLHEAD PROTECTION REGULATIONS; WELLHEAD PROTECTION AREA DELINEATION AND PREVENTATIVE MEASURES; REGULATED BUSINESS REVIEW FOR COMPREHENSIVE PLAN AND AQUIFER PROTECTION CONSISTENCY; ENFORCEMENT CONFLICTS WITH OTHER ORDINANCES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, groundwater is an important resource within the City of Oldsmar which must be protected; and

WHEREAS, all potable water used in the City of Oldsmar water system is derived from groundwater; and

WHEREAS, Chapter 62-521 F.A.C., the Well Head Protection Rule requires protection of groundwater from contamination and establishes criteria for delineating wellhead protection areas, and

WHEREAS, Goal 3 of the City of Oldsmar Comprehensive Plan, Infrastructure section, requires that the natural groundwater aquifer recharge areas within the City shall be protected and maintained; and

WHEREAS, Objective 3.1 of the City of Oldsmar Comprehensive Plan, Infrastructure section, requires that the City shall continue to implement procedures to provide protection for the natural groundwater aquifer and prime recharge areas located within the City; and

WHEREAS, the City of Oldsmar has agreed to implement Objective 3.1 of the Comprehensive Plan, found in Goal 3 of the Infrastructure section, through the adoption of an Aquifer/Wellhead Protection Ordinance; and

WHEREAS, it is in the best interest of public health, safety, and welfare of the citizens of the City of Oldsmar to establish groundwater protection criteria for the City of Oldsmar existing and future potable water resources.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLDSMAR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Sections 9.1 and 9.2 of Article IX of the Land Development Code shall be deleted and shall be replaced with the following:

9.1 Short Title

That this Ordinance shall be known as and may be cited as the “City of Oldsmar Aquifer/Wellhead Protection Ordinance”.

9.2 Legislative Intent and Purpose

9.2.1 The intent and purpose of the City of Oldsmar Aquifer/Wellhead Protection Ordinance is to protect and maintain the quality and quantity of groundwater, and to safeguard the public health, safety and welfare by providing protection and development standards for the potable water supply wells through the review and restriction of land uses within the designated areas in the City of Oldsmar, Florida.

9.2.2 This Ordinance shall provide criteria for regulating the facilities and activities in the Wellhead Protection Area (WHPA) so as to preclude the introduction of these substances into groundwater.

9.2.3 The contents of this Ordinance shall meet or exceed the goals, objectives and policies established in the adopted August 2008 Comprehensive Plan.

9.2.4 For the purpose of this Ordinance it shall be the policy that the property owner and/or responsible party shall be held liable for all activities that may contribute to groundwater contamination that occur on their property.

9.3 Definitions

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this subsection, except where the context

indicates a different meaning. Additional terms and phrases defined in chapter 62-521.200 F.A.C. shall also be applicable to this article and have the meanings therein designated.

Aquifer or Aquifer System. Any saturated, permeable geologic unit or group of units that can transmit significant quantities of water under ordinary hydraulic gradients and/or yield significant quantities of water to wells or springs.

City. The City of Oldsmar, or the city council, or the city manager, as the context requires.

Contamination. The presence of a Regulated Substance in the water supply, surface water, or on the land surface such that it degrades the quality of the resource so as to constitute a hazard and/or to impair its use.

Discharge. Includes, but is not limited to, the spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any Regulated Substance which may affect the groundwater.

EPA. The United States Environmental Protection Agency or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

FDEP. The Florida Department of Environmental Protection or where appropriate the term may also be used as a designation for the secretary or other duly authorized official of such agency.

Groundwater. Water in the sub-surface of the earth in both soils and geologic formations that are saturated.

Hazardous Substance. A substance that has one or more of the following characteristics: ignitability, corrosivity, reactivity, or toxicity as defined in 40 CFR Part 261 (as amended), bioaccumulative effect, or persistence in nature. This definition is distinct from Regulated Substances, which will usually include, but not be limited to, Hazardous Substances.

Person. An individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural, where indicated by the context.

Petroleum Product. Fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, and other similar products.

Potable Water Supply Well. Any well constructed for the purpose of conducting groundwater to the surface, by pumping or natural flow, and the groundwater from such excavation is to be used for drinking or other potable water uses.

Public Supply Well. A well that is connected to a system that provides piped water to the public for human consumption, assuming it has at least fifteen

service connections or regularly serves at least twenty-five individuals daily at least 60 days out of the year.

Recharge Area. Any area which contributes significant quantities of water to the underlying aquifer system either by the downward percolation of water through permeable geologic units or by the more direct introduction of water into the aquifer through localized karst features or sinkholes.

Regulated Business. Any publicly or privately-owned operation that produces, uses, stores, or disposes of a Regulated Substance, unless specifically exempted.

Time of Travel. The time required for groundwater to move from a specific point to a well. This is typically determined by analytical or numerical modeling.

Well. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying groundwater to the surface, monitoring groundwater levels or other characteristics, providing cathodic protection, or providing a method of injecting water into the aquifer system from above the earth's surface.

Wellhead Protection Area (WHPA). A zone or zones surrounding a well or group of wells which has (have) been delineated as an area where special protective measures will be implemented to protect the quality of water contributing to the well(s).

9.4 Wellhead Protection Area Delineation and Preventative Measures

9.4.1 Establishment of Primary and Secondary Wellhead Protection Areas

Wellhead Protection Areas shall be delineated for all Public Supply Wells within the City of Oldsmar, Florida.

9.4.1.1 Primary Wellhead Protection Areas shall include all land between the wellhead and the 5 year time of travel boundary.

9.4.1.2 Secondary Wellhead Protection Areas shall include all land between the Primary Wellhead Protection Area and the 10 year time of travel boundary.

9.4.2 Methodology for Delineation of Wellhead Protection Areas

The Wellhead Protection Areas were developed using a numerical model of groundwater flow in the Upper Floridan Aquifer. The model was based on a regional simulation of groundwater flow developed by the Southwest Florida Water Management District. The model assumes that the City's wells will be pumped at the rate specified in the City's Water Use Permit. The Primary and Secondary Wellhead Protection Areas are based on the modeled 5-year and 10-year time of travel distances, respectively.

9.4.3 Wellhead Protection Area Maps

9.4.3.1 The WHPA Map delineating the Primary WHPA and Secondary WHPA is incorporated herein and made part of this ordinance. These maps shall be on file and maintained by the City's Public Works Department. Any amendments, additions or deletions to the map shall be approved by amendment to the ordinance.

9.4.3.2 The WHPA Map will be reviewed and updated based on changes in technical knowledge concerning the applicable aquifer, changes in pumping rates of wells, well reconfiguration, or addition of new wells.

9.5 Evaluation Process

9.5.1 Prohibited Uses

Without approval from the City of Oldsmar the following uses are prohibited within the WHPA

1. Facilities for bulk storage, handling or processing of materials on the Florida Substance List (section 442.103, Florida Statutes) as maintained by the Florida Department of Labor and Employment Security. ‘
2. Activities that require the storage, use, handling, production or transportation of restricted substances, agricultural chemicals, petroleum products (other than to fuel pumps), hazardous/toxic wastes, industrial chemicals or medical wastes.
3. Any use prohibited by state or federal regulations.
4. Auto salvage operations.
5. Transfer stations.
6. Recycling facilities.
7. Mines
8. Excavation of waterways or drainage facilities which intersect the water table.
9. Landfills.
10. Feedlots or other concentrated animal facilities.
11. Wastewater treatment plants, percolation ponds or similar facilities.

9.5.2. Restrictions within Wellhead Protection Areas

9.5.2.1 The following restrictions shall apply within Primary Wellhead Protection Areas.

1. New domestic wastewater treatment facilities shall be provided with Class I reliability as described in Chapter 62-600, F.A.C., and flow equalization. Wastewater ponds, basins, and similar facilities shall be lined or sealed to prevent measurable seepage. Unlined reclaimed water storage systems are allowed for reuse projects permitted under Part III of Chapter 62-610, F.A.C.

2. New discharges to groundwater of industrial wastewater, as regulated under Chapters 62-660, 62-670, 62-671, 62-672, and 62-673, F.A.C., shall be prohibited, except for non-contact cooling water discharges (without additives)
3. New Class I and Class II underground injection control wells, as regulated in Chapter 62-28, F.A.C., are prohibited.
4. New Class V underground injection control wells are prohibited except for aquifer storage and recovery system wells, where the injected fluid meets the applicable groundwater quality standards in Rule 62-520.420, F.A.C.
5. New generators of hazardous waste, as regulated under Chapter 62-730, F.A.C., shall comply with the secondary containment requirements of 40 CFR Part 264 Subpart I (1994), hereby incorporated by reference.
6. New hazardous waste, treatment, storage, disposal, and transfer facilities requiring permits under Chapter 62-730, F.A.C., are prohibited.
7. New aboveground and underground tankage of hazardous wastes regulated under Chapter 62-730, F.A.C., are prohibited.
8. New underground storage tanks regulated under 62-761, F.A.C., shall not be installed after the effective date of this ordinance. Replacement of an existing underground storage tank of the same or less capacity is exempt from this provision, provided that the replacement tank system is installed with secondary containment as required in Chapter 62-761, F.A.C.
9. New aboveground storage tanks regulated under 62-761, F.A.C., shall not be installed after the effective date of this ordinance. Replacement of an existing aboveground storage tank of the same or less capacity is exempt from this provision, provided that the replacement tank system is installed with secondary containment as required in Chapter 62-761, F.A.C.
10. New fixed pesticide mixing/loading areas shall be constructed and operated in accordance with the guidance contained in "DEP Minimum Construction and Operation Standards for Chemical Mixing Centers used for Pesticide Mixing and Loading," November 1994, hereby incorporated by reference.
11. Existing fixed pesticide mixing/loading areas which do not meet the requirements in (10) above shall be retrofitted to meet those requirements by October 1, 2011, or shall not be used for mixing/loading after October 1, 2011.

9.5.3 The following restrictions shall apply within Secondary Wellhead Protection Areas.

1. New discharges to groundwater of industrial wastewater, as regulated under Chapters 62-660, 62-670, 62-671, 62-672, and 62-673, F.A.C., shall be prohibited, except for non-contact cooling water discharges (without additives).
2. New Class I and Class II underground injection control wells, as regulated in Chapter 62-28, F.A.C., are prohibited.

3. New Class V underground injection control wells are prohibited except for aquifer storage and recovery system wells, where the injected fluid meets the applicable groundwater quality standards in Rule 62-520.420, F.A.C.

4. New generators of hazardous waste, as regulated under Chapter 62-730, F.A.C., shall comply with the secondary containment requirements of 40 CFR Part 264 Subpart I (1994), hereby incorporated by reference.

5. New hazardous waste, treatment, storage, disposal, and transfer facilities requiring permits under Chapter 62-730, F.A.C., are prohibited.

6. New aboveground and underground tankage of hazardous wastes regulated under Chapter 62-730, F.A.C., are prohibited.

7. New underground storage tanks regulated under 62-761, F.A.C., shall not be installed after the effective date of this ordinance. Replacement of an existing underground storage tank of the same or less capacity is exempt from this provision, provided that the replacement tank system is installed with secondary containment as required in Chapter 62-761, F.A.C.

9.6 Regulated Business Review for Comprehensive Plan and Aquifer Protection Consistency

9.6.1 Review and approval shall be required for all new operations.

9.6.1.1 Any owner or authorized agent who desires to begin a new operation shall comply with the Business Tax Receipt requirements outlined in Part II of the City of Oldsmar Municipal Code of Ordinances.

9.6.1.2 Any owner, authorized agent or contractor who desires to construct, enlarge, erect, alter, repair, demolish, move or change the occupancy of any building or structure shall comply with the Building Permit requirements outlined in Part III of the City of Oldsmar Municipal Code of Ordinances.

9.6.2 No review and approval shall be required for existing operations provided that no occupancy change occurs and all requirements of this Ordinance are being met.

9.6.2.1 Any owner, authorized agent or contractor who desires to construct, enlarge, erect, alter, repair, demolish, move or change the occupancy of any building or structure shall comply with the Building Permit requirements outlined in Part III of the City of Oldsmar Municipal Code of Ordinances.

Section 2. That the existing Section 9.3. titled “Habitat of Endangered of Threatened Species” shall be renumbered to Section 9.7.

Section 3. This Ordinance shall be strictly enforced in accordance with the enforcement procedures established by the City of Oldsmar in addition to any established Federal or State Enforcement Procedures.

Section 4. All other ordinances or parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 5. If any provision, paragraph, words, section or article of this Article is invalidated by any Court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 6. That this ordinance shall be effective upon final passage and adoption and following approval by the Florida Department of Environmental Protection as a substantial program modification in accordance with Chapter 62-625.504 F.A.C.

PASSED ON FIRST READING: October 5, 2010.

PASSED ON SECOND READING AND ADOPTED: October 19, 2010.

Jim Ronecker, Mayor
City of Oldsmar

ATTEST:

Ann E. Stephan, City Clerk
City of Oldsmar

APPROVED AS TO FORM:

Thomas J. Trask, Esquire
City Attorney
City of Oldsmar