

Town of Menomonie  
Dunn County, Wisconsin

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**Groundwater Recharge Protection Overlay District Ordinance**

This ordinance shall repeal any previous board groundwater recharge protection overlay district ordinances dated April 11, 2013 and November 11, 2011 and take effect after the passage and posting as provided by law.

Adopted this 9th day of July 2019 by the Town Board of the  
Town of Menomonie, Dunn County, Wisconsin.

Filed this 9th day of, 2019

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Frank Bammert, Chairman

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Ed Hartung, Supervisor

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Kent Jackson, Supervisor

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Leslie Hulbert, Clerk

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# Groundwater Recharge Protection Overlay District Ordinance

## I. Title of the Ordinance, Purpose, Findings, and Objectives

A. Title of the Ordinance. This ordinance shall be known as the Groundwater Recharge Protection Overlay District Ordinance of the Town of Menomonie.

B. The purpose of the groundwater recharge protection overlay district ordinance is to protect key groundwater recharge areas by imposing appropriate land use regulations in these areas. Wisconsin Act 410, 1983, specifically includes groundwater protection among the purposes for which zoning power may be exercised. The regulations of an overlay district will apply in addition to all other regulations, which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the groundwater protection overlay district are more stringent.

C. Findings of Fact. In order to provide for the health, safety, and welfare of the public and a healthy economic climate in the Town of Menomonie and surrounding area, it is essential that the quality of drinking water be ensured, and for this reason it is necessary to protect the groundwater resources of the Town of Menomonie. This ordinance is designed to protect, preserve, and maintain groundwater supplies and groundwater recharge areas. Such an ordinance helps manage development and land use practices that could contaminate or reduce the recharge to the aquifer.

D. Objectives. The objectives of the ordinance are:

1. Protect groundwater quality by regulating land uses that generate, use, or store pollutants in excellent, very good, and good recharge areas.

2. Protect groundwater quantity by limiting density in excellent and very good recharge areas.

3. Protect groundwater quality and quantity by ensuring that any development that occurs within excellent and very good groundwater recharge areas will not threaten to decrease recharge to the aquifer and/or increase any contaminant to a level above its Wisconsin Groundwater Quality Public Health Enforcement Standard (ES) or its United States Environmental Protection Agency (USEPA) Primary or Secondary Maximum Contaminant Level (MCL). If groundwater is found to exceed one or more standards, then the ordinance ensures that development will not threaten to increase the contaminant level.

4. Agriculture practices that are accepted by the appropriate State of Wisconsin Agencies are not affected by this ordinance.

E. Severability. The several sections, subsections and paragraphs of this ordinance are hereby declared to be severable. If any section, clause, provision or portion of this ordinance shall be declared by a

69 decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of  
70 the other provisions of this ordinance, or of the section of which the invalid portion or paragraph may  
71 be a part. Furthermore, if any application of any section, clause, or portion of this chapter to a  
72 particular structure, land or water shall be declared by a decision of a court of competent jurisdiction to  
73 be invalid, such decision shall not be applicable to any other structure, land or water not specifically  
74 included in the decision.

75 II. Establishment of a Groundwater Recharge Protection Overlay District

76 A Groundwater Recharge Protection Overlay District is hereby established which shall consist of all lands  
77 within the Town of Menomonie that are mapped as excellent, very good, and good recharge areas by  
78 the map published by the Dunn County Land Conservation Division entitled, "Location of Recharge Areas  
79 to the Sandstone Aquifer in Dunn County, Wisconsin, 2005" by Neil C. Koch. Said map is hereby adopted  
80 by reference becoming a part of the ordinance as if the map were fully described herein.

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82 III. Groundwater Protections Standards. The Town of Menomonie for areas in the Groundwater  
83 Recharge Protection Overlay District requires the following standards.

84 A. Land development in excellent and very good groundwater recharge areas.

85 1. Lots that have any portion in excellent or very good groundwater recharge areas  
86 shall leave no less than 30% of the acreage as open space (green space). The  
87 green space shall first be located in those areas of excellent and/or very good  
88 recharge. See the Conservation Subdivision Ordinance Chapter 2.6, for  
89 definition of green space.

90 2. Lots that have any portion in excellent or very good groundwater recharge areas  
91 and that are less than one acre shall either have a sewage treatment system as  
92 described in the Conservation Subdivision Ordinance Chapter 2.6 or have a  
93 wastewater-holding tank.

94 B. Prohibited use of land in the excellent, very good, and good groundwater recharge  
95 areas include, but are not limited to:

96 1. Land disposal of hazardous wastes. (enforced by the Wisconsin DNR)

97 2. Landfills and incinerators.

98 3. Asphalt mixing plants.

99 4. Public or private recycling centers.

100 5. Contractor's storage yards, public or private dumping grounds, automobile  
101 wrecking yards, or junkyards.

102 6. Concrete mixing plants.

103 7. Gasoline service stations.

104 8. Car washes unless wastewater is removed to a wastewater treatment system.

- 105 9. Medical water facilities.
- 106 10. Mineral Extraction, except for nonmetallic mining operation for Town, County, or State Highway  
107 construction with limited purpose and duration.

108 C. Except as stated below, the following zoning districts are prohibited in excellent,  
109 very good, and good recharge areas.

- 110 1. Light Industrial (LI)
- 111 2. Heavy Industrial (HI)
- 112 3. Limited Commercial (LC)
- 113 4. General Commercial (GC)

114 An exception may be made if the applicant can demonstrate:

- 115 1. There is no threat to decrease recharge to the aquifer; *and*
- 116 2. There is no threat to increase any contaminant in the aquifer to a level above its  
117 current level or above "safe" levels, whichever is lower, (See section D3 of this  
118 document for standards and contaminant listings); *and*
- 119 3. There is no threat of contamination from surface flow into the other areas of  
120 excellent, very good, or good groundwater recharge areas.

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122 D. As part of the approval process, specific contaminants that could be introduced into the  
123 aquifer by the proposed facility shall be identified. The applicant shall pay for any consultation that the  
124 Board deems necessary in determining possible contaminants, or in applying any other parts of this  
125 ordinance. Also, as part of the approval process, the Town may require that restrictions be placed on the  
126 deed. These may include but not limited to:

- 127 a. Limiting uses for any subsequent owner
- 128 b. Limiting uses for current owner.
- 129 c. Requiring certain procedures to ensure compliance with this ordinance.

130 IV. Modifications

131 A. Authority application. Where in the judgment of the Town Board it would be  
132 inappropriate to apply literally the provisions of this ordinance because  
133 exceptional or undue hardship would result, the Town Board may waive or  
134 modify any requirements to the extent deemed just and proper.

135 B. Conditions for granting modifications. The Town Board shall not grant  
136 modifications or waivers to this ordinance unless it makes findings based upon  
137 the evidence presented to it in each specific case provided all the following  
138 conditions are met.

139 1. The granting of the modification shall not be detrimental to the public, safety,  
140 health or welfare, or injurious to other property in the area.

141 2. The conditions upon which the request for a modification is based are unique  
142 to the property for which the modification is sought and are not applicable  
143 generally to other property.

144 3. Because of particular physical surroundings, shape, or topographical conditions of  
145 the specific property involved, a particular hardship to the owner would result, as  
146 distinguished from a mere inconvenience, financial hardship, or self-imposed  
147 hardship, if the strict letter of this ordinance were carried out.

148 C. Granting modifications by the Town Board.

149 1. The Town Board, if it approves the modification to this ordinance, shall do so  
150 by motion or resolution.

151 2. Such relief shall be granted without detriment to the public good, without  
152 impairing the intent and purpose of this ordinance or the desirable general  
153 development of the Town consistent with the Town of Menomonie  
154 Comprehensive Plan and/or this ordinance.

155 3. Any modification granted can only provide the minimum relief needed to alleviate  
156 the unnecessary hardship or obtain reasonable use of the property.

157 4. A majority vote of the membership of the Town Board shall be required to grant  
158 any modification of this ordinance, and the reasons shall be entered in the minutes.

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160 V. Violations, Penalties, and Enforcement

161 A. Violation. It shall be unlawful to build upon or discharge any material in violation of the  
162 ordinance.

163 B. Penalties. Any person, firm, corporation, or municipality who fails to comply with the provisions  
164 of this ordinance shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100)  
165 nor more than One Thousand Dollars (\$1,000) and the forfeiture shall be added to the property tax  
166 when possible.

167 Any person, firm, corporation, or municipality that discharges material in violation of the ordinance shall  
168 be required to remove the discharged material so as not to do harm to the quality of the groundwater.  
169 The perpetrator will be responsible for all cleanup costs. If the cleanup is not completed within thirty  
170 (30) days after the conviction it shall constitute a separate offense, and a separate offence for each  
171 thirty (30) day period thereafter.

172 C. Enforcement. The Town Board may instate appropriate action or proceedings  
173 to enjoin violations of the ordinance or applicable state law.

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