

Subpart B - LAND DEVELOPMENT AND LAND USE
Chapter 104 - DEVELOPMENT REGULATIONS

ARTICLE XI. GROUNDWATER RECHARGE AREA PROTECTION ORDINANCE

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Sec. 104-458. Introduction.

In order to provide for the health, safety and welfare of the public and a healthy economic climate within the county and surrounding communities, it is essential that the quality of the county's water resources be ensured for public use. For this reason, it is necessary to protect the subsurface water resources of the county.

(Code 1992, § 8-320; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-459. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer means any stream (rock layer) or zone of rock beneath the surface of the earth capable of containing or producing water from a well. (Note: This is the same definition used in the Groundwater Use Act).

Environmental health manager means this position refers to the current department head holding the title "environmental health county manager."

Groundwater recharge area (synonymous with aquifer recharge area) means an area of the earth's surface where water infiltrates the ground, thereby replenishing the groundwater supplies within an aquifer.

Pollution susceptibility means the relative vulnerability of groundwater to pollution from chemical spills, leaching of pollutants from dump sites, animal waste from agricultural operations or pollution generated by other human activities.

Pollution susceptibility maps means maps prepared by the state department of natural resources (DNR) that show the relative susceptibility of groundwater to pollution. Pollution susceptibility maps categorize the land areas of the state into areas of high, medium and low groundwater pollution potential.

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Significant groundwater recharge area means areas mapped by DNR in Hydrologic Atlas 18 (1989 edition) are. Mapping of recharge areas is based on outcrop area, lithology (chemical nature and form of the rock), soil type and thickness, slope, density of lithologic contacts, geologic structure, presence of "karst" topography (sinkholes, caves, and fissures associated with limestone and other carbonate rocks), and potentiometric surfaces.

(Code 1992, § 8-321; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-460. Purpose and objectives.

- (a) Groundwater resources are contained within aquifers that are permeable, rock strata occupying vast regions of the subsurface. These aquifers are replenished by infiltration of surface water runoff in zones of the surface known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas. It is therefore, necessary to manage land use within groundwater recharge areas in order to ensure that pollution threats are minimized.
- (b) The objectives of this article are to:
 - (1) Protect groundwater quality by restricting land uses that generate, use or store dangerous pollutants in recharge areas;
 - (2) Protect groundwater quality by limiting density of development; and
 - (3) Protect groundwater by ensuring that any development that occurs within the recharge area shall have no adverse effect on groundwater quality.

(Code 1992, § 8-322; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-461. General provisions.

- (a) *Applicability.* This article shall be applicable to any person, corporation or other entity performing land disturbing activities that require a building permit, site plan, preliminary plat, or final plat approved by the county.
- (b) *Designation of article administrator.* The county stormwater management department shall administer this article.
- (c) *Compatibility with other regulations.* This article is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environmental shall control. No local government action under this article relieves the land owner from federal and/or state permitting requirements.

(Code 1992, § 8-323; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-462. Establishment of a groundwater recharge area district.

A groundwater recharge area district is hereby established that shall correspond to all lands within the jurisdiction of the county that are mapped as significant groundwater recharge areas by the state department of natural resources in Hydrologic Atlas 18, 1989 edition.

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(Code 1992, § 8-324; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-463. Determination of pollution susceptibility.

Each recharge area is determined to have a pollution susceptibility of high, medium or low based on the state pollution susceptibility map prepared by the state department of natural resources in Hydrologic Atlas 20, 1992 edition. Groundwater recharge areas in the county are located in low pollution susceptibility areas.

(Code 1992, § 8-325; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-464. Submittal requirements.

- (a) With the exception of activities identified in subsection (c) of this section that are exempt from this article, any land disturbing activity in a groundwater recharge area district shall identify the groundwater recharge area district on any submittals to the county including, but not limited to, a site plan, preliminary plat, or a final plat, depending on the nature of the development.
- (b) The following information, in addition to any other requirements for site plans, preliminary plats, or final plats per the county development regulations, is required for all development within groundwater recharge areas:
 - (1) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
 - (2) All development activities or site work conducted after site plan, preliminary plat, or final plat approval shall conform to specifications of said site plan, preliminary plat, or final plat. Significant changes to the site plan, preliminary plat, or final plat that alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in an increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval by the county.
- (c) The following activities are exempt from the requirement of this article:
 - (1) Repairs to a facility that is part of a previously approved and permitted development.
 - (2) Construction of minor structures, such as sheds or additions to single family residences.

(Code 1992, § 8-326; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-465. Groundwater protection standards.

- (a) New waste disposal facilities must have synthetic lines and leachate collection systems.
- (b) A SCS approved liner must be provided for new agricultural waste impoundments exceeding 50 acre-feet. As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the natural resources conservation service.
- (c) No land disposal of hazardous waste shall be permitted within any significant groundwater recharge area.
- (d) For all significant groundwater recharge areas, the handling, storage and disposal of hazardous materials shall take place on an impermeable surface having spill and leak protection approved by

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the state department of natural resources, environmental protection division (EPD). New facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in the amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.

- (e) For all significant groundwater recharge areas, new above ground chemical or petroleum storage tanks larger than 650 gallons must have secondary containment of 110 percent of tank volume or 110 percent of the largest tanks in a cluster of tanks.
- (f) No construction may proceed on a building or mobile home to be served by a septic tank unless the county health department first approves the proposed septic tank installations as meeting the requirements of the state department of human resources manual for on-site sewage management systems (hereinafter referred to as DHR Manual) and subsection (g) of this section.
- (g) Minimum lot size for new homes served by an individual septic tank/drain field system will be based on table MT-1 of the DHR Manual and the criteria for protection of groundwater recharge areas, A through D. Minimum lot or space size for mobile homes served by an individual septic tank/drain field system will be based on table MT-2 of the DHR manual and the criteria for protection of groundwater recharge areas, A through D. Section M, lot sizing of the DHR manual states in the criteria for protection of groundwater area, that if a local government requires a larger lot size than that required by (2A) of the DHR manual for homes or (2B) of the DHR manual for mobile homes, the larger lot size shall be used. Section M, lot sizing of the DHR manual is not printed herein but is on file in the county offices.

(Code 1992, § 8-327; Ord. of 12-5-2001; Ord. No. 2012-04, § 1, 3-8-2012)

Sec. 104-466. Penalties.

- (a) In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the county stormwater management department shall first notify the owner/operator or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the owner/operator or other responsible person fails to cure such violation after such notice and cure period, the county stormwater management department may take any one or more of the following actions or impose any one or more of the following penalties:
 - (1) *Stop work order.* The county stormwater management department may issue a stop work order which shall be served on the owner/operator or other responsible person. The stop work order shall remain in effect until the owner/operator or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the owner/operator or other responsible person to take the necessary remedial measures to cure such violations.
 - (2) *Suspension, revocation or modification of permit.* The county stormwater management department may suspend, revoke or modify any permit authorizing any development on the project. A suspended, revoked or modified permit may be reinstated after the owner/operator or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the county stormwater management department may deem

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necessary) to enable the owner/operator or other responsible person to take the necessary remedial measures to cure such violations.

- (b) Civil penalties. For intentional and flagrant violations of this article or in the event the owner/operator or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the county stormwater management department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), the county stormwater management department may impose a penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation is not remediated after receipt of the notice of violation.
- (c) Criminal penalties. For intentional and flagrant violations of this article, or in the event the owner/operator or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the county stormwater management department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), the county stormwater management department may issue a citation to the owner/operator or other responsible person, requiring such person to appear in the county state court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$2,500.00 per day, per violation or a sentence of imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Code 1992, § 8-328; Ord. No. 2012-04, § 1, 3-8-2012)

Secs. 104-467—104-485. Reserved.