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| Municipality: | County of Leon |
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| Community Type – applicable to: | Urban; Suburban; Rural |
| Title: | County of Leon Aquifer and Wellhead Protection Ordinance |
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Abstract

The ordinance protects and maintains the quality and quantity of groundwater in the county through the regulation of specific uses and wells. Requirements for the registration of businesses and agencies that use regulated substances and remediation activities should hazardous discharges occur are included. This regulation includes public education requirements, a provision for program funding through a fee system, and a mechanism for inspections.

Resource

DIVISION 1. GENERALLY

Sec. 10-1901. Definitions.

As stated in section 10-1 the definitions in section 10-1 apply to this article. 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:

Discharge shall mean a nonpermitted discharge as defined by the state department of environmental regulation and includes but is not limited to, the spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substances which may affect the groundwater.

(Ord. No. 92-4, § 1(3), 1-28-92)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 10-1902. Intent and purpose.

(a) The intent and purpose of this article is to protect and maintain the quality and quantity of groundwater in the county by providing criteria for regulating the use, handling, production, storage, and disposal of regulated hazardous substances.

(b) This article shall establish performance standards for the use, handling, production, storage, or disposal of regulated hazardous substances that are applicable to facilities so as to preclude the introduction of these substances into groundwater.

(c) This article, through its provisions, shall protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.

(d) This article shall authorize the establishment of a funding mechanism for the operation and implementation of aquifer protection remediation.

(Ord. No. 92-4, § 1(1(5)--(8)), 1-28-92)

Sec. 10-1903. Compliance with comprehensive plan.

The contents of this article shall meet or exceed the goals, objectives and policies established in the adopted comprehensive plan.

(Ord. No. 92-4, § 1(4)), 1-28-92)

Sec. 10-1904. Public education and reporting requirements.

(a) A public program shall be conducted in order to correct current practices regarding the use, storage, and disposal of regulated substances to ensure the protection of water resources in the county.

(b) An annual report shall be presented to the Board of County Commissioners and to the city commission detailing the extent of the public education activities, and the status of activities of the aquifer protection program.

(Ord. No. 92-4, § 1(2), 1-28-92)

Sec. 10-1905. Territorial applicability.

The aquifer/wellhead protection area shall include all land and surface water within the county.

(Ord. No. 92-4, § 1(1(2)), 1-28-92)

State law references: Conflicts between county and municipal ordinances, Fla. Const. art. VIII, § 1(f).

Sec. 10-1906. Regulated substances--Designated.

(a) Regulated substances, including degradation and interaction products, shall include the following:

(1) Substances, including degradation and interaction products, which because of quality, concentration, or physical/chemical characteristics (including ignitability, corrosivity, reactivity and toxicity), radioactivity, mutagenicity, bioaccumulative effect, or persistence in nature; or

(2) Those substances set forth in the lists, as amended from time to time, entitled, "Lists of Hazardous Waste" (40 CFR 261, subpart D), "Hazardous Constituents-Appendix VIII," (40 CFR 261), and "EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA" (40 CFR 302.4); or

(3) Substances which have known hazardous properties as listed in 40 CFR 302 by the EPA; or

(4) Substances that are restricted-use pesticides according to F.S. ch. 487, or which are listed in F.A.C. chs. 5E-2 and 5E-9; or

(5) Water which contains total dissolved solids (TDS) in excess of 10,000 parts per million (ppm) or chlorides in excess of 500 ppm.

(Ord. No. 92-4, § 1(4.2), 1-28-92)

Sec. 10-1907. Same--Registration.

(a) Any business or agency that, at any time, manufactures, stores, or uses regulated substances listed in section 10-1906 in quantities greater than five gallons if liquid or greater than 50 pounds if solid, shall be required to register on appropriate forms within 120 days of February 7, 1992.

(b) Any business or agency being inspected as of February 7, 1992, under F.A.C. ch. 17-671 or 17-672, or the county small quantity generator program shall be registered by a transfer of existing records and will not be required to complete the aquifer protection registration form unless the information obtained in the records transfer is incomplete. In such cases the registration form will be sent for completion.

(c) The aquifer protection coordinator shall maintain a list of regulated businesses with their associated four-digit Standard Classification Codes (SIC). This list will be made available upon request and will be on file with the business/occupational license departments of the city and county.

(d) This section does not apply to:

(1) Fire, police, emergency medical services and county emergency management center facilities.

(2) The transportation of any regulated substance, provided that the transporting motor vehicle is in continuous transit. However, if the transporting vehicle containing regulated substances is not regulated by the U.S. Department of Transportation or the state department of transportation or the state department of highway safety then it shall be deemed stationary (not in continuous transit) and must be registered.

(3) The use of any regulated substance in a vehicle or lawn maintenance equipment as a fuel or lubricant.

(4) Retail or wholesale establishments that store or handle regulated substances for resale in their original unopened containers, provided that no individual container of regulated substances exceeds five gallons if liquid or 50 pounds if solid.

(5) Office uses, including the use of regulated substances for the maintenance and cleaning of office buildings.

(6) The use of regulated substances for cleaning, maintaining, pest control, or any other use by households, that is not a regulated business. Farming operations which are greater than three acres and animal feedlots are not exempted under this subsection (6).

(7) The activities of constructing, repairing or improving any facility, provided that all contractors, subcontractors, laborers, materialmen and their employees, when using, handling, storing, or producing regulated substances, use the applicable best management practices.

(e) An affected person may request a special exemption from this section. In order to obtain such an exemption, such person must demonstrate by a preponderance of competent, substantial evidence to the aquifer protection coordinator that special or unusual circumstances and adequate technology exists to isolate the facility or activity from soils, groundwater, or surface water. In granting the special exemption, the aquifer protection coordinator may prescribe any additional appropriate conditions that are necessary to protect soils, groundwater, or surface water.

(Ord. No. 92-4, § 1(4.1, 4.3), 1-28-92)

Sec. 10-1908. Discharge causing groundwater protection prohibited.

It shall be unlawful to discharge any substance in a manner that will cause groundwater contamination.

(Ord. No. 92-4, § 1(1(1)), 1-28-92)

Sec. 10-1909. Stormwater.

Stormwater quality treatment shall be regulated through the applicable provisions of Article VII or the City of Tallahassee Environmental Management Act, as amended, whichever is appropriate.

(Ord. No. 92-4, § 1(4.4), 1-28-92)

Sec. 10-1910. Regulated business review for comprehensive plan and aquifer protection consistency.

No review and approval shall be required for existing operations provided that no occupancy change occurs, the site is registered with the aquifer protection program, and all requirements of this article are being met.

(Ord. No. 92-4, § 1(6), 1-28-92)

Sec. 10-1911. Program funding.

(a) Fees may be established by resolution in accordance with the comprehensive plan settlement agreement requirement that user fees be collected to contribute to the cost of the inspection program.

(b) Fees may be established by resolution to provide a funding mechanism for the operation and implementation of future aquifer protection remediation.

(Ord. No. 92-4, § 1(7), 1-28-92)

Sec. 10-1912. Remediation activities.

Remediation by the responsible party for discharges of regulated substances shall begin within seven days. The following cleanup criteria shall apply:

(1) Any affected groundwater or surface water must be remediated to drinking water standards or background water quality.

(2) Affected soils shall be remediated using best available technologies for the particular contaminant that has been released.

(3) If any soil work is to be performed, all stormwater sedimentation erosion controls must be in place in accordance with all environmental management ordinances.

(Ord. No. 92-4, § 1(8), 1-28-92)

Secs. 10-1913--10-1925. Reserved.

DIVISION 2: VIOLATIONS AND ENFORCEMENT

Sec. 10-1926. Generally.

(a) This article shall be strictly enforced in accordance with the enforcement procedures established by the county in addition to any established federal or state enforcement procedures.

(b) Enforcement procedures pursuant to this article shall commence only after the data evidencing the unpermitted discharge of a regulated substance has been forwarded to the appropriate federal and or state enforcement program. Enforcement procedures under this article for unpermitted discharges shall begin after enforcement activities of federal and state regulations have been exhausted.

(Ord. No. 92-4, § 1(9(1), (3)), 1-28-92)

Sec. 10-1927. Persons held liable for violations.

For the purpose of this article 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.

(Ord. No. 92-4, § 1(1(3)), 1-28-92)

Sec. 10-1928. Notification procedures.

(a) A copy of notice of violation issued pursuant to this article shall be served upon the affected persons by either delivery or certified mail and shall be posted on the site. A notice of violation may be directed to the person owning the land upon which the violation has occurred or to any person who has committed the violation or both. When immediate corrective actions are warranted under the provisions of section 10-1929, reasonable effort shall be made to provide notice as specified above, but when such notice cannot be immediately accomplished, sufficient notice may be given by physically leaving a copy of the notice or order at the address of the owner of the property.

(b) Upon satisfactory completion of corrective action and remedial steps required by a notice of violation, the aquifer protection coordinator or the state department of environmental regulation shall forthwith issue a notice of compliance or a site rehabilitation completion order if the site was governed by F.A.C. ch. 17-770. The notice of compliance shall cancel the notice of violation.

(c) Any lien issued pursuant to this article and determined under the authority of this article shall be imposed only after notice has been given to the owner of the property upon which the lien is sought to be imposed, has been given a reasonable opportunity to be heard. Such lien shall be recorded with the clerk of the circuit court and may be enforced under the provisions of F.S. ch. 125.

(Ord. No. 92-4, § 1(9(1)(d)), 1-28-92)

Sec. 10-1929. Immediate corrective actions.

Whenever it is determined by the aquifer protection coordinator, or his designee that a discharge of regulated substances is resulting in imminent threat of contamination of groundwater or danger to life or property from the contamination of groundwater, the aquifer protection coordinator may require immediate corrective action. Initiation of any required clean-up activities shall commence within 24 hours and shall be completed within a time specified by the aquifer protection coordinator. Failure to take such immediate corrective action when notified of the need for such action shall constitute a violation of this article. If immediate corrective measures are not taken and there is danger to health, safety and welfare to the public, the aquifer protection coordinator or his designee may enter upon lands, take corrective actions, and place a lien on the real property of such person or persons to recover the costs of the corrective measures.

(Ord. No. 92-4, § 1(9(1)(c)), 1-28-92)

Sec. 10-1930. Notice of violation.

(a) When a violation of this article has occurred the aquifer protection coordinator or his designee shall issue written notice to the person in violation, identifying the nature and location of the violation and specify that remedial action is necessary to bring the violation into compliance. The person in violation shall immediately, conditions permitting, commence remedial action and shall have such time as may be specified in the notice, to complete the remedial actions required to bring the activity into compliance with this article.

(b) If the person in violation fails to complete remedial action within the time allowed, the aquifer protection coordinator may levy a fine as established by resolution or may initiate other enforcement actions as authorized by law.

(Ord. No. 92-4, § 1(9(1)(a), (1)(b)), 1-28-92)

Sec. 10-1931. Penalty.

Any person violating any provision of this article shall be punished according to law or in accordance with Leon County enforcement procedures. Each day any violation continues shall be considered as a separate offense.

(Ord. No. 92-4, § 1(9(2)(a)), 1-28-92)

Cross references: Penalty for ordinance violations, § 1-9.

Sec. 10-1932. Building permits/occupational licenses.

No building permit or new business/occupational license shall be issued for a site on which a violation of this article exists.

(Ord. No. 92-4, § 1(9(2)(b)), 1-28-92)

Sec. 10-1933. Injunctions.

Affected persons may seek an injunction against any violation of the provisions of this article and recover from the violator such damages as he may suffer, including but not limited to, the damage to property as a result of a release of regulated substances.

(Ord. No. 92-4, § 1(9(2)(c)), 1-28-92)

Secs. 10-1934--10-1950. Reserved.

DIVISION 3: PREVENTATIVE MEASURES

Sec. 10-1951. Facility inspections.

(a) The aquifer protection coordinator and designated inspectors are hereby authorized to make inspections at normal operational hours of all facilities or activities regulated by this article including nonresidential buildings, structures and land in the county in order to determine if a discharge has occurred.

(b) Inspections shall be conducted upon 24-hour notification except that inspections may be conducted without notice provided there is sufficient evidence that a discharge has occurred or is occurring.

(c) If a person who has common authority over a building, structure, or land does not permit an inspection, the inspection may be rescheduled and shall be noticed by certified mail. Failure of such person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying, or examining the premises.

(d) If a building, structure or land appear to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the aquifer protection coordinator or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection.

(e) The aquifer protection coordinator and inspectors shall have available and upon request present official identification when making inspections.

(f) It shall be the duty of all city or county law enforcement officers to assist in making inspections when such assistance is requested by the aquifer protection coordinator or inspector.

(Ord. No. 92-4, § 1(5.1), 1-28-92)

State law references: Inspection warrants, F.S. § 933.20 et seq.

Sec. 10-1952. Reporting of discharges.

(a) Any discharge of a regulated substance at the reporting thresholds established in this article in the county shall be reported immediately by the facility owner, operator, or responsible party to the aquifer protection coordinator or his designee. Such notification shall in no way alleviate the owner, operator, or responsible party from other local, state, and federal reporting obligations as required by law. The aquifer protection coordinator or his designee shall inform the fire department of the substance discharged, the amount, location, duration of discharge and the potential hazard to groundwater if known.

(b) Threshold reporting quantities are as follows:

(1) The following substances and chemicals shall be reported if discharged in an amount equal to or greater than one gallon:

a. Chlorinated solvents including but not limited to:

1. Carbon tetrachloride.
2. Tetrachloroethylene.
3. Trichloroethylene.
4. 1,1,1,-trichloroethane.
5. 1,2-dichloroethane.
6. Methylene chloride.

(2) The following substances and chemicals shall be reported immediately if discharged in an amount equal to or greater than five gallons:

a. The following pesticides (specifically generic names):

1. Fenuron.
2. Terbacil.
3. Bromacil.

b. Phenolic compounds.

(3) Petroleum or petroleum products including petroleum based solvents shall be reported if discharged in an amount equal to or greater than 25 gallons.

(4) All other regulated substances listed in section 10-1906, shall be reported immediately if discharged in quantities greater than or equal to 25 gallons of liquid or 50 pounds if solid.

(Ord. No. 92-4, § 1(5.2), 1-28-92)

Sec. 10-1953. Reporting of sinkholes.

The aquifer protection coordinator shall establish a contact point for the reporting of newly formed sinkholes. Sinkholes shall be reported prior to backfilling. Backfill material shall be uncontaminated and of lower permeability than the surrounding soil.

(Ord. No. 92-4, § 1(5.3), 1-28-92)

Sec. 10-1954. Best management practices to prevent discharges of regulated substances.

(a) Best management practices (BMP's) shall be developed and made available to potential dischargers.

(b) General business practices/containment.

(1) Generally. All regulated businesses shall inspect weekly containers holding regulated substance for leaks. Visual inspection is satisfactory provided that the location of the containers can be inspected to a degree which reasonably assures that breakage or leakage can be detected by such inspection.

(2) New construction containment of regulated substances. Leakproof trays, floor curbing or other secondary containment systems shall be installed under containers of a liquid regulated substance. The secondary containment shall be of adequate capacity to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be appropriate to preclude any regulated substance loss to the environment. Containment systems shall be operated so that the intrusion of precipitation is effectively managed. These requirements shall apply to all production and handling areas, storage areas, loading and off-loading areas, and above ground and underground storage tank areas.

(3) Retrofitting. All property owners who store, handle, use, or produce a regulated substance shall retrofit (upgrade) to new construction containment standards whenever building improvements are planned or by January 1, 1998. Storage facilities regulated by F.A.C. ch. 17-761 or 17-762 must meet the required retrofitting schedule. All new construction provisions must be met and reviewed either during building plan review or by the inspection as required by this article.

(Ord. No. 92-4, § 1(5.4), 1-28-92)

Sec. 10-1955. Investigation, monitoring and cleanup of suspected or known discharges.

(a) Generally. If a facility is found to have visible signs of contamination or if a reportable discharge has occurred that may affect soil, surface water, or groundwater, the facility owner may be required to conduct an investigation which may include, but not be limited to, soil borings, soil or groundwater sampling and analysis, or monitoring well installation pursuant to the provisions of this section.

(b) Applicable rules and guidance.

(1) F.A.C. ch. 17-770 establishes the procedures that shall be followed for petroleum and petroleum product contamination.

(2) F.A.C. chs. 17-761 and 17-762 establish the procedures that shall be followed for closure of storage tanks.

(3) Established DER enforcement cases shall follow DER's "Model Orders for Corrective Action" or the procedures established by consent order.

(4) Sampling procedures and laboratory analysis shall meet the requirements of F.S. § 403.0625.

(c) Minimization of groundwater contamination. All facilities with discharges of regulated substances shall undertake steps to minimize the possibility of groundwater contamination.

(Ord. No. 92-4, § 1(5.5), 1-28-92)

Sec. 10-1956. Injection wells, heat exchange wells and drainage wells.

(a) Injection wells. Any well used for the purpose of injecting regulated substances to groundwater is hereby prohibited.

(b) Heat exchange wells.

(1) Any well used for the purpose of withdrawal and subsequent reinjection to the Floridan Aquifer shall not alter existing chemical, radiological, or biological water quality.

(2) All reinjected water from heat exchange well shall meet all primary, secondary and F.A.C. ch. 17-3, drinking water standards and FDER groundwater guidance standards.

(3) The owner of any heat exchange well operated in the county shall not discharge refrigerants to groundwater.

(4) All newly installed heat exchange wells shall be designed to prevent air entrainment in the reinjection process. All heat exchange wells existing as of February 7, 1992 must be retrofitted in order to prevent air entrainment by January 1, 1995.

(5) All owners of nonresidential heat exchange wells shall install a sampling tap on the withdrawal and the reinjection well that will be suitable for sample collection for both wells within one year from February 7, 1992.

(6) Within one year of February 7, 1992 the nonresidential heat exchange well system operator shall be required to have a flow measuring device and method for totaling annual flow and record the annual flow in the withdrawal and reinjection wells. The flow information must be provided to the aquifer protection coordinator in addition to the sampling results on an annual basis.

(7) All wells used for withdrawal and subsequent reinjection for the heat exchange process that pump greater than 100,000 gallons per day shall be required to sample the reinjection water annually for water quality standards as of February 7, 1992 and annually thereafter. The results shall be provided annually to the aquifer protection coordinator.

(8) The following governs corrective action:

a. In the event of a discharge to the reinjection system of any regulated substance, or if the reinjection water does not meet all primary drinking water quality standards, the well owner will be required to remediate the reinjection water and the affected withdrawal water to all primary drinking water standards at his own expense.

b. Remediation must be conducted using sound hydrogeologic and engineering principles and must continue until the withdrawal and reinjection water meets all primary drinking water quality standards.

c. The responsible party for all remediation projects is required to keep the aquifer protection coordinator informed of his progress, any problems or changes in status of the remediation process. The aquifer protection coordinator reserves the right to conduct split water sampling to verify any and all results.

(c) Drainage wells.

(1) As of February 7, 1992, the installation of any well for the purpose of surface drainage is prohibited.

(2) All owners of property that contain drainage wells must properly abandon all such wells one year from February 7, 1992. The appropriate abandonment permit must be obtained from FDER and the Northwest Florida water management district.

(3) Any drainage well that is identified in a new development project study must be properly abandoned prior to commencement of any construction.

(Ord. No. 92-4, § 1(5.6), 1-28-92)

Sec. 10-1957. Well abandonment and geotechnical borings.

(a) Well abandonment.

(1) Any well that is not being used for removing groundwater from an aquifer; recharge; determining quantity, quality, level or movement of groundwater; and removing or exchanging heat shall be properly abandoned at the property owner's expense following the guidelines established by the Northwest Florida water management district (NFWFMD) within one year of February 7, 1992.

(2) In instances that can be determined by the aquifer protection coordinator, the well may not need to be abandoned but the evaluation and determination of the necessity of abandonment shall be coordinated through the Northwest Florida water management district.

(b) Geotechnical borings.

(1) All borings deeper than 25 feet shall be neat cement grouted to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the Floridan Aquifer.

(2) All borings less than 25 feet deep shall be backfilled with the original drilled soil to the surface to prevent the creation of a sump. Where the boring is advanced through asphalt or concrete it shall be patched at the surface with a similar impervious material.

(3) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material and the horizontal and vertical extent of the contamination must be assessed and reported following the applicable provisions of section 10-1955.

(Ord. No. 92-4, § 1(5.7), 1-28-92)

Sec. 10-1958. Septic tanks and drainfields.

(a) The discharge of a regulated substance to a septic system shall be considered a violation of this article.

(b) If upon testing, a regulated substance is identified in the septic tank or drainfield, and may cause violation of groundwater standards, the regulated business will be required to conduct the investigation required by section 10-1955.

(c) Any regulated business that is found to have discharged regulated substances to a septic system shall be required to connect to the sanitary sewer system if such system is available

and within 1,000 feet of the property within 120 days or in accordance with a schedule approved by the aquifer protection coordinator.

(d) Floor drains, grease traps and oil water separators shall be constructed to prevent infiltration of regulated substances to soil, groundwater, or surface water.

(Ord. No. 92-4, § 1(5.8), 1-28-92)

Sec. 10-1959. Inventory or proof of proper disposal; recycling of regulated substances.

(a) Proof of proper disposal.

(1) Inventory or manifest documentation required by the Resource Conservation and Recovery Act (RCRA)-40 CFR 262 subpart B, shall be required to be kept by each facility that is regulated by RCRA for all substances that are used or considered waste products to ensure that all substances are handled in an environmentally acceptable manner for each regulated substance.

(2) All regulated businesses that are not regulated by RCRA shall be required to keep an inventory of the types of regulated substances that are used or considered waste products to ensure that all substances are handled in an environmentally acceptable manner. The method of record keeping may be of their own choosing, however, such records shall allow inspectors to determine if used or waste products are being disposed of in compliance with federal, state and local laws.

(3) Each regulated business shall provide documentation such as a contract or agreement with a certified waste hauler or documentation that shows that used or waste by-products are being disposed of using environmentally acceptable methods or are being recycled.

(4) Disposal records shall be made available at normal operational hours for the purpose of inspection.

(5) Disposal of any regulated substance to the sanitary sewer in the city sewer service area above the levels established in the city's industrial pretreatment ordinance shall be considered a violation of this article.

(b) Recycling regulated substances. It shall be required that regulated substances should be recycled or reused if economically and technically feasible.

(Ord. No. 92-4, § 1(5.9), 1-28-92)

Secs. 10-1960--10-1969. Reserved.