

## ORDINANCE NO. 2021-007

AN ORDINANCE CREATING §311 OF THE TOWN OF CLAYTON CODE OF ORDINANCES  
ESTABLISHING PUBLIC WATER SUPPLY UTILITY REGULATIONS

THE TOWN BOARD OF THE TOWN OF CLAYTON ORDAINS AS FOLLOWS:

**SECTION 1: Intent.**

- A. The Town of Clayton (the “**Town**”) owns the equipment and property to pump and convey water within the Town with such water delivery system operated pursuant to the Agreement for the Provision of Water Service Between the Town of Clayton and the Village of Fox Crossing dated January 27, 2020, as amended by that First Amendment to the Agreement for the Provision of Water Service Between the Town of Clayton and the Village of Fox Crossing, as may be further amended from time to time. The Village of Fox Crossing is a public water utility approved and authorized by the State of Wisconsin Public Service Commission pursuant to Ch. 196, Wis. Stats., and Ch. PSC 185, Wis. Adm. Code. The regulations adopted in this article are intended to govern and provide a process for potential public water supply users and to enable the Town to protect and safeguard potable water provided through the Town water mains from wells maintained and operated by the Town. The operation, design and construction shall be consistent with and in compliance with Ch. NR 811, Wis. Adm. Code, specifications and requirements for the operation and design of community water systems.
- B. In accordance with the above-stated purpose, all water main installation within the Town must comply with the State of Wisconsin Plumbing Code as specified within the Wisconsin Administrative Code and all the building regulations of the Town of Clayton adopting and enforcing Town of Clayton and State Plumbing Code regulations.

**SECTION 2: Installation and connection to public water supply.**

- A. Permit required.
- (1) No person shall make any connection of any private water service to the water facilities of the Town without first obtaining a permit for said connection. No person shall uncover or expose any water service lateral or water main or other appurtenances thereto, whether on private or public property, without first obtaining an inspection permit from the Town.
  - (2) The owner of residential, industrial or commercial real estate which is located within the Town service area wishing to obtain water service by connection to a Town water main shall indicate such intention to the Town, in writing, by completing and filing with the Town forms and questionnaires for that purpose as prepared by the Town. The applicant shall provide fully all information required by the form that

shall be signed by the owner of the property that is intended to be served by the proposed connection. The Town and/or designated representative shall review each application and either grant or refuse permission to connect as the best interest of the Town may dictate. An application for a permit shall be deemed granted only when a written connection permit is issued by the Town signed by an authorized representative of the Town. No connection to a Town water main shall be made except pursuant to the terms and conditions of the permit and the Town's ordinances.

- B. Installation requirements. Upon the issuance of a permit, the applicant shall be allowed the hookup or installation of a connection to water service as designated on the permit. The application shall contain information and notify the Town of the intended time and place of the installation of the laterals or water connection. The permit holder shall give advance notice to the Town at the time of installation and no water lateral installation shall be completed and covered without being inspected. At the time the connection is completed, the Town's designated inspector shall inspect the connection and the lateral up to the building being connected. The Town will establish hookup and inspection fees related to these installation requirements. The inspection and hookup fees shall be paid at the time of the application for the connection to the Town's facilities. A fee schedule shall be kept on file with the Clerk of the Town and may be revised from time to time by the Town Board as necessary to cover costs and expenses.
- C. Plumbing license required. Any connection to the Town water main shall be made only by a licensed plumber, in full compliance with the connection permit and all applicable laws and regulations, and shall be subject to the Town's inspection as provided herein.
- D. Final inspection. The permit shall contain a final approval signature line that will be required to be signed before covering the water lateral installation. In the event that no inspection is made and the final approval is not obtained, the Town shall have the right to disconnect any lateral not so inspected.
- E. Denial of applications. If an application is denied, the Town Board shall specify, in writing, the reasons for the denial. After properly taking any corrective action which the reasons stated in the Town Board's denial may suggest, an applicant may renew his application. The Town Board may grant permission to connect subject to conditions that the applicant shall fulfill before the connection is made to which the applicant and the real property served by the proposed connection shall remain subject should the condition be continuing. All conditions shall be specified in the connection permit.
- F. Wellhead protection. Any applications for permission to connect real estate which is located within 1,200 feet of a Town wellhead and/or upon which property any hazardous substances are presently stored or contained, or for which plans for storage or containment exist at the time of the application for permission to connect, shall disclose fully the precise nature, extent and manner of storage of the hazardous materials which are, or will be, stored or contained upon the property. Regarding such an application, the Town Board may grant permission to connect to a water main subject to a provision that should the

Town install a new well in the future, the property owner then shall remove any hazardous materials with containers upon his property whatever distance from the new wellhead is then required under the applicable state and federal laws and regulations necessary to protect the installation of the new wellhead.

**SECTION 3: Design and construction of water main and attachments thereto.**

- A. The Town adopts and incorporates by reference to these ordinances the Standard Specifications for Sanitary Sewer and Water Main Construction for the Town of Clayton.
- B. The Town shall from time to time make modifications and revisions to the Standard Specifications and any revision or modification approved by the Town Board and the Wisconsin Department of Natural Resources is hereby incorporated and made part of this article upon final Wisconsin Department of Natural Resources approval.
- C. The Town shall keep on file at its offices with the Clerk of the Town a current and complete copy of the Standard Specifications. The Standard Specifications shall be followed for any public or private water main, water lateral or connection meter or other attachment or appurtenance thereto.
- D. In addition to the requirements of the Standard Specifications, the Town has adopted Water Meter Installation and Specification requirements that have been adopted and filed with the Clerk of the Town. The regulations contained therein are hereby incorporated by reference into this article as if set forth in full herein. The Town shall, from time to time, make revisions and modifications to the water meter specifications that upon adoption by the Town Board are deemed as having been incorporated into this article as revisions thereto.

**SECTION 4: Meter specification requirements.**

Water meter installation and specification requirements adopted are on file with the Town.

**SECTION 5: Testing water mains required.**

It is hereby required that all water mains installed in the Town of Clayton shall be air tested in accordance with "Specifications Governing Air Testing of Sewer and Water Mains on Lines" for the Town of Clayton. It shall be required by any person, party, corporation, firm or individual installing any water main in the Town of Clayton to comply with the aforementioned specification.

**SECTION 6: Notification of Town prior to maintenance or repair work.**

- A. Before the commencement of any excavation work by any private or public utility or municipality for the repair and maintenance of any water main or water service laterals located in the street or public right-of-way, which lie within the boundaries of the Town, said entity shall be required to notify the Town 24 hours prior to the actual excavation which excavation causes the exposure of any water main or water service lateral.

- B. No water main or service lateral or other appurtenance, whether upon public property or right-of-way or private property, will be exposed, uncovered or tampered with unless an inspection permit has first been obtained from the Town and an authorized representative of the Town is present at the time such water service lateral or water main or other appurtenance is exposed and uncovered.

#### **SECTION 7: Private water facilities/multiple connections.**

- A. Private water facilities serving more than one residence or one multiple-family dwelling unit shall not be connected to or become a part of the Town water system unless, prior to the construction of said system, water approval is obtained from the Town.
- B. The Town Board may refuse the connection of private facilities serving more than one residence or more than one multiple-dwelling unit.
- C. The Town Board shall require that all private systems connected to the services of the Town be inspected during installation by an inspector designated by the Town Board. The cost of said inspection shall be the obligation of the owner of the private system. All inspection fees shall be paid prior to connection to the Town water facilities.
- D. Upon acceptance of any private water facilities as defined above, the owner shall dedicate the facilities to the Town, and in the case where the facilities are not located beneath a public roadway, the roadway shall be designated to the Town or an easement sufficient for the maintenance of the facilities shall be given to the Town.

#### **SECTION 8: Cross-connection control and backflow prevention.**

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

##### **BACK SIPHONAGE**

The flow of water or other liquids, mixtures or substances into the distribution pipes of the Town's potable water supply from any source caused by the sudden reduction of pressure in the Town potable water supply system.

##### **BACKFLOW**

The undesirable flow of water or mixtures of water and other liquids, gases or other substances under positive or reduced pressure into the Town of Clayton water distribution pipes of the potable supply of water from any source(s).

##### **BACKFLOW PREVENTER**

A device or means designed to prevent backflow caused by back pressure or back siphonage. Most commonly categorized as air gap, reduced pressure principle backflow preventer, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose connection vacuum breaker, hose connection backflow preventer, backflow preventer with intermediate atmospheric vent, and barometric loop.

## **CROSS-CONNECTION**

Any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the Town and the other containing water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow depending on the pressure differential between the two systems.

- B. Cross-connections prohibited. No person shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the public water supply of the Town may enter the supply or distribution system of the Town, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Town and by the State of Wisconsin Department of Natural Resources, and Ch. SPS 382, Wis. Adm. Code.
- C. Inspections. It shall be the duty of the Town to cause inspections to be made of all properties serviced by the Town where cross-connection with the public water system is deemed possible. Residential properties and commercial properties like residential serviced by the Town shall be inspected on a ten-year interval, per Chs. SPS 382 and NR 811, Wis. Adm. Code. All other commercial, industrial and public authority properties serviced by the Town shall be inspected on a two-year interval. The Town will perform the cross-connection inspection of the owner's property that is required to be tested every 10 years under Chs. SPS 382 and NR 811, Wis. Adm. Code. If, in the opinion of the Town, the Town is not able to perform the inspection, the property owner must, at his own expense, have the plumbing inspected for cross-connections by a State of Wisconsin-certified cross-connection inspector/surveyor or by a State of Wisconsin-licensed plumber. All commercial, industrial and public authority properties that are required to test every two years shall have a state-certified plumber inspect the property at their own expense using Clayton's nonresidential inspection form. A completed inspection form shall be sent to Clayton Utilities every two years. The frequency of required inspections and reinspections, based on potential health hazards involved, may be shortened by the Town. The Town shall charge fees as approved by the State of Wisconsin Public Service Commission for on-premises follow-up visits by Town personnel for reinspection due to customer noncompliance and for after-hours inspections or reinspections.
- D. Right of entry. Upon presentation of credentials, representatives of the Town shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Town for cross-connections. If entry is refused, such representatives shall obtain a special inspection warrant under §66.0119, Wis. Stats. Upon request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property.
- E. Authority to discontinue service. The Town is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this

section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued if the means of backflow prevention required by the Town is not installed, tested, maintained and repaired in compliance with this section and Ch. NR 811, Wis. Adm. Code, or if it is found that the means of backflow prevention required by this section has been removed or bypassed. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Ch. 68, Wis. Stats., except as provided in Subsection G of this section.

- F. Reconnection of service. Water service to any property discontinued under the provisions of this section shall not be restored until the cross-connection has been eliminated or a backflow prevention device approved by the Town has been installed in compliance with the provisions of this section. The Town shall charge fees as approved by the State of Wisconsin Public Service Commission for the reconnection of the water service.
- G. Emergency discontinuance of service. If it is determined by the Town that a cross-connection or an emergency endangers public health, safety or welfare and requires immediate action, service may be immediately discontinued. The owner, lessee or occupant shall have an opportunity for hearing under Ch. 68, Wis. Stats., within 10 days of such emergency discontinuance. Such hearing shall be before the Town Board and shall conform to all existing due process requirements.
- H. Owner responsibility. The property owner shall be responsible for the elimination of or protection from all cross-connections on his premises. The owner shall, at his expense, have installed, maintained, and tested any and all backflow preventers on his premises in compliance with Chs. NR 811 and SPS 382, Wis. Adm. Code. The property owner shall have corrected any malfunction, revealed by periodic testing, of any backflow preventer(s) on his premises. The property owner shall inform the Town of any proposed or modified cross-connections, and also any existing cross-connections, which are not protected by an approved backflow prevention device. The property owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Property owners who cannot shut down operation for testing of the backflow prevention device(s) must supply additional devices necessary to allow testing to take place. In the event the property owner installs plumbing upstream of the backflow preventer, such plumbing must have its own approved backflow preventer.
- I. Additional protection. In the case of premises having internal cross-connections that cannot be permanently corrected or controlled or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow preventer in the service line. In the case of any premises where there is any material dangerous to health that is handled in such a manner that, in the opinion of the Town, could create an actual or potential hazard to the public water system, the public water system shall be protected by

an approved air-gap separation or an approved reduced-pressure principle backflow preventer. Examples of premises where these conditions will exist include sewage treatment plants, hospitals, mortuaries, plating plants and car wash establishments. In the case of any premises where, in the opinion of the Town, an undue health threat is posed because of the presence of toxic substances, the Town may require an approved air gap at the service connection to protect the public water system. This requirement will be at the discretion of the Town.

- J. Chapter SPS 382, Wis. Adm. Code, is hereby adopted, except any penalty provisions therein. Chapter NR 811, Wis. Adm. Code, is hereby adopted.
- K. Plumbing codes. This section does not supersede the State of Wisconsin Plumbing Code, Chs. SPS 381 to 387, Wis. Adm. Code, but is supplementary to it.
- L. Recommended practice. The property owner will be required to follow the recommended protection practices described in the American Water Works Association publication No. AWWA M14 titled "Recommended Practice for Backflow Prevention and Cross-Connection Control" unless the Town requires or authorizes other means of protecting the public water system. These requirements or authorizations will be at the discretion of the Town.

#### **SECTION 9: Unauthorized use of water; damage or tampering with water supply.**

- A. It shall be unlawful for any person to do any of the following without prior approval of the Town Board or the employed or contracted operating official of the Town and in addition thereto having obtained all required permits pursuant to this article:
  - (1) To allow any contractor, mason, plumber, or any unauthorized person to take water from such water user's premises, to operate any valve or other connection or shutoff device connected with the street or supply mains, or to open or take water from any hydrant connected with the distribution system. Water may be taken from a hydrant only to extinguish a fire.
  - (2) To disconnect, tamper with, bypass or change or modify any meter placed on any line connected to the distribution system. Meters shall be protected by the consumer from damage, but shall not be enclosed in such a manner as to prevent reasonable access or observation for reading, inspection and servicing.
  - (3) To damage, change, alter, modify, bypass or tamper with any stop box upon his premises or to obstruct the use and access of said stop box by covering with dirt or placing other obstructions.
  - (4) To tap into, use, alter, change, modify or tamper with any water line directly connected to the distribution system whether located on private or public land so as to interfere with or cause any change in any water service to any business or residence or to cause the water not to pass through a meter or meters on said property.

- (5) To turn water service on or off to any building, business or residence whether metered or unmetered. This subsection shall not prevent licensed plumbers from testing their work, but following testing the water service must be left off until all required inspections have been completed or the plumber shall be subject to the penalties herein.
  - (6) To fail to notify the Town of a defective or nonworking meter when the defect or failure is known to the person owning the premises or using the water.
  - (7) To fail to notify the Town of leaks or damage upon the premises causing a loss of water to the system whether said leak or damage is the result of negligence or carelessness or whether said leak or damage was created intentionally.
- B. During reasonable hours, any officer or authorized employee of the Town shall have the right of access to the premises supplied with water service for the purpose of inspection or for any enforcement of the Town's rules and regulations.
- C. Upon finding by reasonable evidence that any consumer is obtaining or allowing others to obtain from him any supply of water in whole or part by means of devices or methods used to stop or interfere with the proper metering of the water service (surreptitious use of water § PSC 185.37, Wis. Adm. Code), the Town may, upon 24 hours' notice, disconnect the said service, unless repaired, and further has the right to estimate and present for payment immediately the bill for unmetered water service. Disconnection may be had upon failure to pay said bill within 24 hours of presentation to the consumer. When disconnected under this subsection, the Town shall reconnect on the following conditions:
- (1) The consumer makes a deposit with the Town in an amount sufficient to guarantee the payment of the consumers bills for water.
  - (2) The consumer pays the Town for any and all damages to its equipment on the consumers premises due to such stoppage or interference with its metering and for actual costs of the Town employees, it's representatives, or vendors needed to implement and enforce the remediation.
  - (3) The consumer must further agree to comply with reasonable requirements to protect the Town against further losses.

#### **SECTION 10: Abandonment of wells required.**

- A. Purpose. Section NR 810.16, Wis. Adm. Code, directs suppliers of water for municipal water systems to require the abandonment of all unused, unsafe or noncompliant wells located on premises served by a public water system by local ordinance or Town rule to prevent such wells as acting as channels for contamination or vertical movement of water and to eliminate all existing cross-connections and prevent all further cross-connections. This section is enacted for the purpose of preventing contamination of groundwater and to protect public health safety and welfare by assuring that the unused, unsafe or noncompliant well or wells that may serve as conduits for contamination are eliminated.



This section applies to all wells located upon premises served by the Town municipal water system.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**MUNICIPAL WATER SYSTEM**

A system for the provision to the public of piped water for human consumption when such system has at least 1 service connections or regularly serves at least 1 year-round resident owned or operated by a city, village, county, town, town sanitary district, utility district or public institution or a privately owned water utility serving any of the above.

**NONCOMPLYING**

A well or pump installation which does not comply with the provisions of Chapter NR 812, Wisconsin Administrative Code, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

**PUMP INSTALLATION**

The pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

**UNSAFE**

A well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in exceedance of the standards of Chapter NR 809 or NR 140, Wisconsin Administrative Code, or for which a health advisory has been issued by the Department of Natural Resources.

**UNUSED**

A well or pump installation which is not in use or does not have a functional pumping system.

**WELL**

An excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for consumption or other use.

**WELL ABANDONMENT**

The filling and sealing of a well according to the provisions of Chapters NR 811 and 812, Wisconsin Administrative Code.

- C. Abandonment required. All wells located on premises served by the municipal water system shall be abandoned in accordance with the terms of this section and Chapters NR 811 and 812, Wisconsin Administrative Code, no later than one year from the date of connection to the municipal water system, unless the owner of the premises shall obtain a well operation permit from the Town of Clayton.

D. Well operation permit.

- (1) The Town may grant to a private well owner the right to operate a well for a period not to exceed five years, and five-year renewals thereafter, providing the conditions of this section are met. The Town, or its agents, shall conduct inspections and have water quality tests conducted at the applicant's expense to obtain information necessary for consideration of a well operation permit application or renewal thereof. Permit applications and renewals shall be made on forms provided by the Town.
- (2) The following conditions must be met for issuance or renewal of a well operation permit:
  - (a) The well and pump installation must meet or be upgraded to meet the requirements of Chapter NR 812, Wisconsin Administrative Code.
  - (b) The well and pump installation have a history of producing bacteriologically safe water as evidenced by at least one safe sample. The well is also required to be tested for arsenic and must be under the maximum contaminant level of 10 parts per million. Samples shall be tested by a laboratory certified by the State of Wisconsin for examination of drinking water.
  - (c) It shall be presumed that a well and pump installation with no cross-connections to any serviced building(s) shall be justified for such uses as filling swimming pools, lawn care and maintenance, and for washing motorized equipment. It shall be unlawful to divert any amount of this water to the Town of Clayton Sanitary District #1 sewer system. The Town shall have the right to obtain laboratory results directly from the testing laboratory when necessary to obtain the results of tests to allow for permit issuance. Costs paid by the Town shall be billed to the permittee and upon failure of payment shall be placed upon the next annual property tax bill as a special assessment or special charge.

E. Abandonment procedures.

- (1) All wells abandoned under the jurisdiction of this section or rule shall be abandoned according to the procedures and methods of Chapter NR 812, Wisconsin Administrative Code. All debris, pump piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.
- (2) The owner of the well, or the owner's agent, shall notify the Town at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well may be observed by an agent/representative of the Town.
- (3) The person or persons abandoning the well shall be either a licensed well driller, or pump installer, licensed by the State of Wisconsin.

- (4) An abandonment report form, supplied by the State of Wisconsin, Department of Natural Resources, titled "Well Abandonment/Borehole Abandonment," form number 3300-5B, Revision 889, or future revisions thereof shall be submitted by the well owner to the Town and the State of Wisconsin, Department of Natural Resources, within 10 working days of the completion of the well abandonment.
- (5) It is not the intent of this section to require automatically the abandonment of used, safe and complying wells located within the Town. Only unused or noncomplying private wells located upon premises served by the Town shall be required to be abandoned.
- (6) Commencing on January 01, 2022, the Town shall require of the owner of premises upon which a private well is located, and which premises are served by a municipal water supply, that said owner of the premises provide to the Town a safe water test report at intervals as required by this section.
- (7) Failure to comply with any of the provisions of this section shall, in addition to the penalties at Section 15 hereof, entitle the Town to obtain an order directing the abandonment of the well in accordance with the laws of the State of Wisconsin and the ordinances of the Town, and upon failure to comply with said court order, the Town shall cause the well abandonment to be performed and all costs of said abandonment shall be assessed as a special charge or assessment upon the tax roll for said property.

#### **SECTION 11: Lawn sprinkling regulated.**

- A. Sprinkling regulations. No person, owner, or occupant of any lot or premises, served by the Town Water Works, shall suffer, permit, or allow the sprinkling of a lawn, garden, or premises with water from the Water Works servicing such lot or premises except as follows:
- (1) The regulation of sprinkling as designated in this section shall be effective only upon the proclamation of the Town and the publication of said restrictions in a newspaper of general circulation within the Town.
  - (2) When the Town Board declares the sprinkling regulations to be in effect, the regulations shall control the use of water for purposes specified above at the following times, hours and places:
    - (a) Persons having even-numbered houses and building numbers shall be allowed to use water as provided herein on even-numbered days, except between the hours of 8:00 a.m. and 5:00 p.m. on said days.
    - (b) Persons having odd-numbered houses and building numbers shall be allowed to use water as provided herein on odd-numbered days, except between the hours of 8:00 a.m. and 5:00 p.m. on said days.

- B. Extreme emergency. Persons who can demonstrate extreme emergency or substantial hardship in the use of water pursuant to the provisions herein may apply to the Town Board for a special permit to use water at times other than specified in this article. The Town Board shall have the authority to vary the regulations contained herein where extreme emergency or substantial hardship is determined to result from the imposition of the rules.

#### **SECTION 12: Allocation of payment for services provided by Town.**

The Town provides a potable water supply and a system of wastewater removal to its residents and customers for whom the Town levies user charges and receives payments from its residents and customers. If a customer of the Town fails to make payment in full upon a combined sewer and water bill, said failure to make payment in full shall provide for both the water bill and the sewer bill to be considered delinquent. No portion of a payment can be considered specifically designated for either sewer service or water service except by an equal proportion.

#### **SECTION 13: Replacement and depreciation and impact fee.**

- A. Necessary charges for the continued operation of the public water supply system shall be established by the Town with the recommendation of the Town's engineers. The Town shall obtain the approval of the Public Service Commission before implementation of any such charge or fee and before the change or modification of a fee or charge shall also obtain the approval of the Public Service Commission.
- B. The implementation of any fee or charge that is considered to be an impact fee which is not in existence as of the date of the adoption of these regulations shall require the Town to follow the procedures as set forth by Wisconsin Statutes before imposition of said fee.
- C. The Town Board has adopted and has in place charges and fees for payment of capital cost, depreciation and replacement as approved by the Public Service Commission, and said charges and fees are hereby adopted and continued as previously ordained. Any changes or modifications thereof shall require compliance with this article and the regulations of the State of Wisconsin and Public Service Commission.
- D. The Clerk of the Town shall keep a record on file, open to public inspection, that shall accurately reflect the charges or fees, the date of the adoption by the Town Board, the uniform method or manner by which the fee shall be calculated and the direction of the Town Board on establishing when charges or fees are required to be paid.

#### **SECTION 14: Wellhead protection.**

- A. Purpose. It is the purpose of this section to ensure a safe and sanitary drinking water supply for the Town of Clayton by the establishment of a wellhead protection zone surrounding the wellheads for Well No. 1 by designation and regulation of property uses and conditions that may be maintained within such zones.

(1) Applicability. This section applies to Well No. 1.

- B. The regulations specified in this section shall apply within the boundaries of the Town of Clayton.
- C. Protection area description. There is hereby established a restricted area to be known as a "wellhead protection area" identified and described as all the area within 1,200 feet of the Town of Clayton Well No. 1.
- D. Prohibited uses or conditions. Well No. 1 shall be adequately separated from potential sources of contamination. Unless a hydrogeologic investigation indicates lesser separation distances would provide adequate protection of a well from contamination, the minimum separation distances provided shall be:
- (1) Fifty feet between a well and storm sewer main.
  - (2) Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or single-family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure-tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.
  - (3) Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a stormwater drainage pond.
  - (4) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Agriculture, Trade and Consumer Protection or its designated agent under Ch. ATCP 93, Wis. Adm. Code.
  - (5) One thousand feet between a well and land application of municipal, commercial or industrial waste; boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under Ch. NR 718, Wis. Adm. Code, while that facility is in operation; industrial, commercial or municipal wastewater lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.
  - (6) One thousand two hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood-burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds Ch. NR 140, Wis. Adm. Code, enforcement standards that is shown on the Department of Natural Resources' geographic information system registry of closed remediation sites; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from the Department of Agriculture, Trade and Consumer Protection or its designated agent under Ch. ATCP 93, Wis. Adm.

Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

E. Existing facilities.

- (1) The standards in this section, not inconsistent with the provisions of §62.23(7)(h), Wis. Stats., shall apply to all existing lawful uses of a structure or building or its accessory use which is not in conformity with the provision of this section.
- (2) Use of existing facilities may be continued subject to the following conditions:
  - (a) No modifications or additions to an existing facility shall be permitted unless made in conformity with provisions of this section. For the purposes of this section, the words "modification" and "addition" shall include, but are not limited to, any alteration, addition, modification, rebuilding or replacement of any such structure or use. Ordinary maintenance is not considered a modification or addition, and includes internal or external painting, decorating, paneling and the replacement of windows, doors, and other nonstructural components.
  - (b) If use of an existing facility is discontinued for 12 consecutive months, any future use of the property shall conform with the appropriate provisions of this section.
  - (c) Owners and/or operators of existing facilities shall provide copies to the Town Administrator of all federal, state and local reports of ongoing environmental monitoring or testing.
  - (d) Owners and/or operators of existing facilities shall provide to the Town Administrator environmental procedures or monitoring as deemed necessary by the Town of Clayton, which may include but is not limited to stormwater runoff management and monitoring.
  - (e) Ordinary maintenance shall be done by existing facilities in a manner that improves the existing environmental conditions already in existence.
  - (f) Existing facilities shall have the responsibility of filing with the Town of Clayton a contingency plan satisfactory to the Town of Clayton and providing immediate notification to the Town of Clayton of any emergency or event that has the potential to cause groundwater contamination.
  - (g) In the event an existing facility causes the release of any contaminants which endanger the Town's groundwater, the activity causing said release shall immediately cease with cleanup satisfactory to the Town of Clayton, including the payment of all cost of cleanup, Town of Clayton consultant fees, and administrative cost for oversight, review and documentation.

**SECTION 15: Violations and Penalties.**

- A. Any person found to be violating any provision hereof shall, upon conviction thereof, be fined in an amount not exceeding the following:
- (1) \$500.00 for a violation of any section of this Ordinance except Section 2(F);
  - (2) \$1,000.00 for a violation of Section 2(F), and
- for each violation, together with the cost of prosecution and reasonable attorneys' fees for enforcement to the extent not prohibited by law, and in default of payment of such forfeiture and cost of prosecution shall be imprisoned in the county jail until said forfeiture and costs are paid, but not exceeding 90 days. Each day upon which any person is found to be violating any provision of this chapter shall constitute a separate offense.
- B. Any person violating any of the provisions hereof shall become liable to the Town for the expense, loss, or damage occasioned by reason of such violation, including all costs required to be expended in carrying out the repairs or in obtaining orders to carry out the repairs from the appropriate court, and including court and legal costs in association therewith.
- C. The penalties of this section shall deemed to be in addition to any other penalties, expense, loss or damage to which the Town is entitled to collect pursuant to other regulations contained herein.
- D. The Town shall be entitled to injunctive relief, together with costs and reasonable attorneys' fees for enforcement to the extent not prohibited by law.

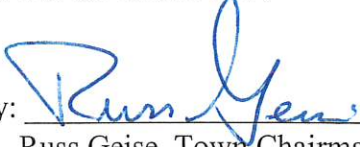
#### **Section 16 Administration and Severability.**

- A. Administration. The provisions of this section shall be administered and enforced by the employed or contracted operating official of the Town. All applications for building permits for properties within a radius of 1,200 feet of a municipal well site shall be examined with regard to the setback distances established in this section.
- B. Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of any section to any person or circumstances is invalid or unconstitutional, such invalidity shall not affect the above provisions or applications of any section which can be given effect without the invalid or unconstitutional provisions of the invalid or unconstitutional section's application.

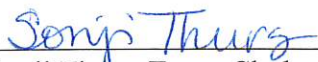
**SECTION 16.** This ordinance shall take effect and be in full force from and after its passage and publication by posting commencing on December 01, 2021.

Passed and approved this 01 day of December, 2021.

TOWN OF CLAYTON

By:   
Russ Geise, Town Chairman

ATTEST:

  
Sonji Thurs, Town Clerk