

ARTICLE VII. GROUNDWATER PROTECTION AND SITING¹

Sec. 28-261. Short title.

This article shall be known and may be cited as "the Groundwater Protection and Siting Ordinance."

(Ord. No. 94-8, § 1, 6-27-94)

Sec. 28-262. Intent and purpose.

It is the intent and purpose of this article to protect and maintain the quality of groundwater in Hernando County by providing criteria for land uses and the siting of facilities which use, handle, produce, store or dispose of regulated substances and by providing protection to vulnerable features which discharge directly to the Floridan aquifer. This article, through its provisions, shall protect the quality of water obtained from existing and future community public supply wells described in this article, in addition to the county-wide groundwater resources.

(Ord. No. 94-8, § 2, 6-27-94)

Sec. 28-263. Definitions.

The following terms shall have the meanings as follow for the purpose of this article:

Animal feeding operation: A lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- (1) Animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period; and
- (2) Crops, vegetation, forage, growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility;
- (3) Two (2) or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

Animal unit: A unit of measurement for an animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty-five (55) pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Aquifer: A groundwater-bearing geologic formation, or formations, that contain enough saturated permeable material to yield significant quantities of water.

¹Cross reference(s)—Building and building regulations, Ch. 8; community development, Ch. 10.5; flood damage prevention and protection, Ch. 13; health and sanitation, Ch. 15; mining regulations, Ch. 19; planning, Ch. 23; subdivision regulations, Ch. 26; zoning, App. A.

Community public water supplies: As defined in 17-550, Florida Administrative Code, a community public water supply is a public water supply which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

Concentrated animal feeding operation: A feeding operation where more animals are confined than are specified in the categories listed below:

- (1) One thousand (1,000) slaughter and feeder cattle.
- (2) Seven hundred (700) mature dairy cattle (whether milked or dry cows).
- (3) Two thousand five hundred (2,500) swine weighing over fifty-five (55) pounds each.
- (4) Five hundred (500) horses.
- (5) Ten thousand (10,000) sheep or lambs.
- (6) Fifty-five thousand (55,000) turkeys.
- (7) One hundred thousand (100,000) laying hens or broilers (if the facility has continuous overflow watering).
- (8) Thirty thousand (30,000) laying hens or broilers (if the facility has a liquid manure handling system).
- (9) Five thousand (5,000) ducks.
- (10) One thousand (1,000) animal units.

Conditionally exempt small quantity generator: A conditionally exempt small quantity generator, as defined by the Resource Conservation and Recovery Act of 1976, 40 Code of Federal Regulations 261, is one which in a calendar month generates no more than one hundred (100) kilograms (two hundred twenty (220) pounds or approximately twenty-five (25) gallons) of hazardous waste or less than one kilogram of an acute hazardous waste. Additionally, the generator must never accumulate more than one thousand (1,000) kilograms (two thousand two hundred (2,200) pounds or approximately two hundred fifty (250) gallons) of hazardous waste at any time.

Disposal: The deposit, injection, dumping, spilling, leaking, incineration or placing of any regulated substances into or on any land or water so that such regulated substances or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters including groundwater.

Facility: All buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person which controls, is controlled by or under common control with such person). For purposes of emergency release notification, the term includes spills or discharges from motor vehicles, rolling stock and aircraft.

Groundwater: All water beneath the surface of the ground.

Groundwater resource protection area: All the land area included within the boundaries of the county.

Landfarming: A process for treating contaminated soil by spreading the contaminated soil in a thin layer over an impermeable liner or surface. Contaminant reduction is achieved through a combination of volatilization, biodegradation and photodegradation.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district or any other entity, public or private, however organized.

Pollution: The presence of any substance or condition in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Potentiometric surface: The elevation to which water will rise in a tightly cased well.

Prohibited uses: Those uses described under the prohibitions for WHPA One, WHPA Two (2) and the Special Protection Area.

Recharge area: Any area of porous, permeable geologic deposits, such as deposits of stratified sand and gravel, and sinkhole area, through which water from any source drains into an aquifer, and including wetlands or waterbodies, together with the watershed.

Regulated substance: Any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive or toxic characteristics may cause or significantly contribute to a present or potential risk to human health, safety, welfare, to groundwater resources or to the natural environment. Regulated substances include those materials subject to the following regulations which meet the requirements of this definition:

- (1) Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 USC sections 9601—9675;
- (2) Clean Water Act (Federal Water Pollution Control Act), 33 USC sections 1251—1387;
- (3) Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 USC sections 136—136Y;
- (4) Emergency Planning and Community Right-to-Know Act of 1986 (EPCRTKA), 42 USC sections 11001—11050;
- (5) Hazardous Materials Transportation Act (HMTA), 49 App. (USC) sections 1801—1819;
- (6) Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub.L. 98-616, Nov. 8, 1984, Stat. 3221;
- (7) Solid Waste Disposal Act and Resource Conservation and Recovery Act (RCRA), 42 USC sections 6901—6992K;
- (8) Superfund Amendments and Reauthorization Act (SARA), Pub. L. 99-499, as amended by Pub. L. 99-563, Pub. L. 100-102 and Pub. L. 101-144;
- (9) Toxic Substances Control Act (TSCA), 15 USC sections 2601—2654;
- (10) Hazardous Substances Law, sections 501.061—501.121, Florida Statutes; and
- (11) Chapter 403, Florida Statutes.

Salvage yards: Any area, lot, land, parcel, building or structure or part thereof used for the salvage or disposal of materials, including, but not limited to, motor vehicles, boats and other machinery.

Small quantity generator (SQG): A small quantity generator, as defined by the Resource Conservation and Recovery Act of 1976, 40 Code of Federal Regulations 260, is one who generates less than one thousand (1,000) kilograms (two thousand two hundred (2,200) pounds or approximately two hundred fifty (250) gallons) of hazardous waste in a calendar month.

Solid waste: Solid waste includes garbage, refuse, white goods, special waste, ashes, sludge or other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. For purposes of this article, solid waste does not include:

- (1) Disposal by persons of solid waste resulting from their own activities on their own property, provided such waste is either from their residential property or is rocks, soils, trees, tree remains and other vegetative matter which normally result from land development operations.
- (2) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

Special protection areas: Zones delineated around vulnerable features, such as sinkholes, excavations or caves, within which land uses are regulated to protect the quality of the groundwater resource.

Spill: The unpermitted release or escape of a regulated substance directly or indirectly to soils, surface waters or groundwater.

Stormwater: The flow of water which results from and which occurs immediately following a rainfall event.

Time of travel: The time required for groundwater to move from a specific point to the well or from the well to a specific point.

Transmissivity: The rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of the aquifer under a unit hydraulic gradient.

Unconfined aquifer: An aquifer which has the water table as its upper boundary and a confining unit as a lower boundary. It is also an aquifer under atmospheric conditions at the water table.

Vulnerable feature: A natural or man-made feature of the land which has the potential to discharge directly to the aquifer. These features include excavations and solution features such as sinkholes, caves and mine pits which expose the top of the Floridan Aquifer.

Wellhead protection areas (WHPA): Zones delineated around wells and/or wellfields within which land uses are regulated to protect the quality of the groundwater resource.

(Ord. No. 94-8, § 3, 6-27-94)

Sec. 28-264. Applicability.

This article shall apply to the unincorporated area of Hernando County and to the incorporated areas of Hernando County to the extent permitted by article VIII, section 1(f) of the Constitution of the State of Florida.

(Ord. No. 94-8, § 4, 6-27-94)

Sec. 28-265. Groundwater resource, wellhead and special protection areas.

- (a) *Establishment.* The entire land area within Hernando County is designated as a groundwater resource protection area. The county shall designate wellhead protection areas (WHPAs) for all community public water supplies. Community public water supplies shall be classified based on the average permitted capacity of the supply. Two (2) WHPAs will be calculated for community water supplies permitted on average to pump greater than or equal to one hundred thousand (100,000) gpd. A single fixed radius WHPA shall be designated for community water supplies permitted on average to pump less than one hundred thousand (100,000) gpd.

Operators and/or owners of community public water supplies shall provide the county with copies of applications to renew water use/water supply permits issued by the Department of Environmental Protection (formerly the Department of Environmental Regulation) and the Southwest Florida Water Management District. Community water supplies shall be required to provide the county with updates to existing water use/water supply permits. Additionally, water use/water supply permit applications for new wells shall be provided to the county at the time of application to DEP and SWFWMD.

Community water supplies which predate the permit issuance process shall provide a calibrated pump test from which the maximum capacity of the supply can be calculated. Community public water supplies which serve projects ninety-five (95) percent built out and contain adequate flow measuring devices may substitute peak daily pumpage for maximum capacity.

Wellhead Protection Area One

Community public water supplies with average permitted capacity $\geq 100,000$ gpd: The land area between the well(s) and the two-year time of travel contour.

Community water supplies with average permitted capacity $< 100,000$ gpd: The land area encompassed by a 500-foot radius from the well(s).

Wellhead Protection Area Two (2)

Community water supplies with average permitted capacity $\geq 100,000$ gpd: The land area between the two- and ten-year time of travel contour.

Community water supplies with average permitted capacity $\leq 100,000$ gpd: Not applicable.

- (b) *Methodology for the delineation of wellhead protection areas for community water supplies permitted to pump 100,000 gallons per day or greater.* The wellhead protection areas correspond to two- and ten-year time of travel contours. These time of travel contours were generated using the WHPA computer model, which was developed for the Environmental Protection Agency. The following is a summary of the procedures used to develop the WHPAs for community water supplies that are permitted on average to pump greater than or equal to (\geq) one hundred thousand (100,000) gpd:
- (1) Maps of the potentiometric surface of the Upper Floridan Aquifer, published biannually by the U.S. Geologic Survey, were obtained for May and September 1987, 1988 and 1989. These maps were assumed to represent the range of climatic conditions in Hernando County.
 - (2) The direction of regional groundwater flow and hydraulic gradient immediately upgradient of each well or wellfield (referred to as a site) were determined for each of these periods.
 - (3) Based on review and analysis of regional groundwater flow direction at each site, two (2) periods were selected for analysis, Period 1 and Period 2. These periods represented the extremes in the direction of groundwater flow to the well(s). All other flow lines for each site were contained within these bounding flow lines.
 - (4) Estimated pumping rates for the year 2000 were determined for each well by projecting the population to be served by the water supply by the year 2000 and multiplying this population by the per capita consumption rate determined by the SWFWMD and the affected utilities.
 - (5) Aquifer transmissivities were obtained either from observed transmissivity values from an aquifer performance test or they were calculated from the regional flow model and the aquifer thickness. These calculated transmissivities were then converted to hydraulic conductivities.
 - (6) An effective porosity value for the Upper Floridan Aquifer was determined to be 0.15.
 - (7) The information outlined above was used to calculate the two- and ten-year time of travel zones for each well or wellfield. The methodology is described in the final technical completion report entitled, *Development of Wellhead Protection Areas for the Major Public Supply Wells in Hernando County, Florida*, herein adopted by reference.

Two (2) delineations were performed for each site, using the data obtained for Period 1 and Period 2 discussed above. An initial WHPA was determined as the composite of the Period 1 and Period 2 zones.

- (8) Final WHPAs for the community public water supplies permitted on average greater than or equal to (\geq) one hundred thousand (100,000) gpd were determined as a composite of the initial WHPA described above and a calculated fixed radius based on the two-year time of travel. This was necessitated due to the small distance between the downgradient stagnation point and the well. Due to the nature of the Upper Floridan Aquifer, discontinuities that do not reveal themselves in analysis of the regional flow supply can pose a significant threat to water quality at the well.

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- (c) *Methodology for the delineation of wellhead protection areas for community water supplies permitted on average to pump less than 100,000 gallons per day.* WHPA One for community water supplies permitted on average to pump less than one hundred thousand (100,000) gallons per day shall be a fixed radius of five hundred (500) feet from the well or wells. This radius is based on the average two-year calculated fixed radius developed for the community water supplies permitted on average to pump greater than or equal to (\geq) one hundred thousand (100,000) gpd.
- (d) *Delineation of special protection areas.* Special protection areas (SPAs) shall be designated around vulnerable features which have the potential to discharge directly to the aquifer. These areas include excavations and solution features such as sinkholes and caves. These features shall be deemed vulnerable when they expose the top of the Floridan Aquifer. For purposes of this article, SPA's shall also be designated to include areas with land use approval for mining whether actual excavation has taken place or not. Such a designation as an SPA shall remain in place unless and until any excavation resulting from mining activities is backfilled or otherwise reclaimed as set forth below, or for areas which have not been excavated, the land use approval for mining is eliminated.

The special protection area shall consist of a setback of five hundred (500) feet as measured from the outer boundary of the vulnerable feature or area with land use approval for mining. Special protection areas shall be delineated on the special protection areas map.

Sinkholes or excavations which have been backfilled to the land surface with material of permeability similar to or less than that of the surrounding soil or equivalent reclamation will not be considered a vulnerable feature.

- (e) *Rebuttable presumption.* Challenge of the county's determination of the applicability of WHPAs and SPAs will be conducted in accordance with the appeal procedure described in this article. The substantially affected party shall provide site-specific data that would allow for more detailed calculations of the zones on a case by case basis.
- (f) *Wellhead and special protection area maps:*
- (1) *Adoption of maps.* The WHPA and SPA maps developed by Hernando County are hereby adopted by reference and made a part of this article. Official WHPA and SPA maps shall be placed on digital file at the Hernando County Planning Department.
 - (2) *Determination of prohibited uses within wellhead and special protection areas.* The determination of locations of prohibited uses within the WHPAs and SPAs will be accomplished in one of the following ways:
 - a. Acknowledgement by the landowner or operator/owner of the facility that the use as regulated by this article is located within a WHPA or SPA.
 - b. Use of global positioning satellite techniques may be used to determine the distance from the protected feature to the prohibited use.
 - c. Survey of the proposed location of a prohibited use by a licensed professional surveyor.If the location of a WHPA or SPA boundary is disputed by any party, a survey, by a licensed professional, shall serve as the basis of the determination.

Potentially prohibited uses located within more than one WHPA shall be considered to be in the most restrictive WHPA. Where the prohibited use is overlapped by WHPAs of different wells or wellfields, the most restrictive WHPA shall apply.
 - (3) *Review of wellhead and special protection area maps.* The WHPA and SPA maps may be reviewed by the board of county commissioners on an annual basis. However, failure to conduct such review will not affect the validity of the existing approved map. Wellhead and special protection area maps may be modified at any time by the board of county commissioners upon notice of an advertised public

hearing for changes in technical knowledge, such as transmissivity or porosity; changes in pumping rates; reconfiguration of wellfields; the installation of new wells or wellfields; and to accommodate changes in topography, such as sinkholes or newly approved mining areas, in a manner consistent with the methodology and standards established in this article for designation of these areas. In the event that new wellfields are established within Hernando County which result in wellhead protection areas being established pursuant to the methodology set forth in this article, or changes occur with respect to special protection areas, the WHPA and SPA maps may be amended by board resolution to reflect the existence of such wellhead protection areas or changes in special protection areas. Any substantially affected person may petition the board to consider amendments to the WHPA and SPA maps. The county shall schedule the requested WHPA or SPA map amendment no more than sixty (60) days after receipt by the county of the request.

(Ord. No. 94-8, § 5, 6-27-94)

Sec. 28-266. Prohibitions within wellhead and special protection areas.

(a) *Wellhead protection area one.* The activities listed below are prohibited in WHPA One:

- (1) Solid waste disposal.
- (2) Discharges from commercial and industrial wastewater treatment plants and industrial septic systems and commercial and industrial wastewater effluent disposal, other than mine settling ponds.
- (3) New discharges from domestic wastewater treatment plants. Expansion of existing domestic wastewater treatment plants will be prohibited unless advanced secondary treatment standards are met. Public access reuse of reclaimed water and land application of domestic wastewater effluent may be allowed upon demonstration of advanced secondary treatment.
- (4) Dairy farms as defined in chapter 5D of the Florida Administrative Code.
- (5) Concentrated animal feeding operations.
- (6) Land application of wastewater residuals (sludge) or septage which requires a permit from the Florida Department of Environmental Protection and/or the Florida Department of Health and Rehabilitative Services.
- (7) New discharges of any regulated substance or untreated stormwater into karst solution features, sinkholes or drainage wells. Existing stormwater facilities discharging to sinkholes or drainage wells which are in violation of chapter 17-25, Florida Administrative Code permit requirements shall be brought into compliance within one year of the effective date of this article. Stormwater facilities which treat stormwater to chapter 17-25, Florida Administrative Code standards shall be presumed to be allowable under this section.
- (8) New underground storage tanks not associated with an existing nonconforming use.
- (9) Mining and borrow pits.
- (10) New residential subdivisions, with a density of greater than one unit per acre, that do not provide for a central sanitary sewer facility and wastewater treatment plant outside WHPA One.
- (11) Hazardous waste treatment, storage or disposal facilities, as defined in section 403.703(22), Florida Statutes, or 40 Code of Federal Regulations 260.10 or chapter 17-730 Florida Administrative Code, including transfer facilities, such facilities ancillary to recycling facilities and facilities which burn such hazardous waste for fuel.
- (12) Hazardous waste generators, other than conditionally exempt small quantity generators or small quantity generators.

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- (13) Facilities regulated by the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC sections 11001—11050.
 - (14) Landscape improvements for golf courses, greens, fairways or tees. Land associated with golf courses maintained without the application of pesticides, fertilizers or other horticultural chemicals is not prohibited in WHPA One.
 - (15) Salvage yards.
 - (16) Landfarming of soil contaminated with regulated substances.
 - (17) Stormwater retention ponds that will receive stormwater from land uses prohibited in WHPA One and that are constructed after the effective date of this article.
 - (18) The siting of underground petroleum product lines, including, but not limited to, pipelines designed for the transportation of gasoline and oil.
- (b) *Wellhead Protection Area Two (2)*. The following activities are prohibited in WHPA Two (2):
- (1) Hazardous waste treatment, storage or disposal facilities as defined in section 403.703(22), Florida Statutes, or 40 Code of Federal Regulations 260.10 or chapter 17-730 Florida Administrative Code, including transfer facilities, such facilities ancillary to recycling facilities and facilities which burn such hazardous waste for fuel.
 - (2) Unlined solid waste disposal facilities.
 - (3) New discharges of any regulated substance or untreated stormwater into karst solution features, sinkholes or drainage wells. Existing stormwater facilities discharging to sinkholes or drainage wells which are in violation of chapter 17-25, Florida Administrative Code permit requirements shall be brought into compliance within one year of the effective date of this article. Stormwater facilities which treat stormwater to chapter 17-25, Florida Administrative Code standards shall be presumed to be allowable under this section.
 - (4) Landfarming of soil contaminated with regulated substances.
 - (5) The siting of underground petroleum product lines, including, but not limited to, pipelines designed for the transportation of gasoline and oil.
- (c) *Special protection areas*. The following activities are prohibited within the special protection area:
- (1) Solid waste disposal.
 - (2) Discharges from commercial and industrial wastewater treatment plants and industrial septic systems and commercial and industrial wastewater effluent disposal, other than mine settling ponds.
 - (3) New discharges from domestic wastewater treatment plants. Expansion of existing domestic wastewater treatment plants will be prohibited unless advanced secondary treatment standards are met. Public access reuse of reclaimed water and land application of domestic wastewater effluent may be allowed upon demonstration of advanced secondary treatment.
 - (4) Concentrated animal feeding operations.
 - (5) Land application of wastewater residuals (sludge) or septage which requires a permit from the Florida Department of Environmental Protection and/or the Florida Department of Health and Rehabilitative Services.
 - (6) New discharges of any regulated substance or untreated stormwater into karst solution features, sinkholes or drainage wells. Existing stormwater facilities discharging to sinkholes or drainage wells which are in violation of chapter 17-25, Florida Administrative Code permit requirements shall be brought into compliance within one year of the effective date of this article. Stormwater facilities

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- which treat stormwater to F.A.C. ch. 17-25 standards shall be presumed to be allowable under this section.
- (7) New residential subdivisions, with a density of greater than one unit per acre, that do not provide for a central sanitary sewer facility and wastewater treatment plant outside an SPA.
 - (8) Hazardous waste treatment, storage or disposal facilities as defined in F.S. § 403.703(22), or 40 CFR 260.10 or F.A.C. ch. 17-730, including transfer facilities, such facilities ancillary to recycling facilities and facilities which burn such hazardous waste for fuel.
 - (9) Hazardous waste generators, other than conditionally exempt small quantity generators or small quantity generators.
 - (10) Facilities regulated by the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 11001—11050.
 - (11) Landscape improvements for golf courses, greens, fairways or tees. Land associated with golf courses maintained without the application of pesticides, fertilizers or other horticultural chemicals is not prohibited in special protection areas.
 - (12) Salvage yards.
 - (13) Landfarming of soil contaminated with regulated substances.
 - (14) Stormwater retention ponds that will receive stormwater from land uses prohibited in an SPA and have a direct connection to discharge into the SPA that are constructed after the effective date of this article. Provided however, that stormwater retention ponds that are permitted to discharge into a SPA shall utilize the use of low impact stormwater design (LID) consisting of, but not limited to, vegetated swales and buffers for secondary treatment of the discharged stormwater or some other measure that provides equivalent protection.
 - (15) The siting of underground petroleum product lines, including, but not limited to, pipelines designed for the transportation of gasoline and oil.
 - (16) Automobile repair, maintenance and commercial car washes. Uses include major and minor automobile repair, automobile tire repair, automobile painting, automobile body shops, oil change stations, and commercial car washes.
 - (17) New underground storage tanks.
 - (18) Marine paint shops and marine repair shops.
 - (19) Laundry and dry cleaning plants; any establishment performing dry cleaning on-site.
 - (20) Electroplating.
 - (21) Laundromats that are not connected to central sanitary sewer.
- (d) *Existing nonconforming prohibited uses.* Any use which is lawfully existing on the effective date of this article or any use or activity which is lawfully existing prior to such use or activity being added to the list of prohibited uses and activities through amendment to this section which does not conform with all the provisions of this article may remain in use or come into use subject to the following:
- (1) No prohibited uses in WHPA One or WHPA Two will be expanded if it increases the nonconformity of the activity.
 - (2) All permitted land application sites for wastewater residuals (sludge) or septage in SPAs and WHPAs may be used until the expiration of the current permit. Permit for wastewater residual and/or septage land application sites shall not be renewed.

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- (3) Approval to expand or to extend a use may be permitted in a SPA provided such expansion or extension will not be detrimental to the SPA feature. Expanded or extended uses shall be confined within the boundaries of that parcel of land upon which such usage occupied at the time the use became nonconforming, and shall not be changed to or expanded to include another nonconforming use. Requests to expand a nonconforming use that are not approved may be appealed in accordance with section 28-272, appeals.

(Ord. No. 94-8, § 6, 6-27-94; Ord. No. 2010-18, § 1, 9-28-10)

Sec. 28-267. General exemptions.

The following activities are exempt from the land use prohibitions applicable to WHPAs and SPAs under this article:

- (1) *Continuous transport of regulated substances.* The transportation of any regulated substance throughout Hernando County shall be exempt from the provisions of this article, provided the transporting motor vehicle is in continuous transit and meets all applicable state and federal requirements.
- (2) *Office use.* Use, handling or storage of regulated substances by offices shall be exempt from the provisions of this article, providing that the regulated substances are auxiliary to the operating activities of the business.
- (3) *Janitorial uses.* The use of regulated substances for the maintenance and cleaning of residential, commercial and office buildings shall be exempt from the provisions of this article.
- (4) *Application of pesticides, herbicides, fungicides and rodenticides.* The application of those regulated substances used as pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the prohibitions of this article, provided that the following procedure is followed: The application of any pesticides, herbicides, fungicides and rodenticides shall be flagged in the records of the certified operator supervising the use. The certified operator shall provide specific notification in writing to the applicators under his or her supervision that they are working at a site located in WHPA One or WHPA Two (2) or an SPA for which particular care is required. Records shall be kept of the date and amount of those substances applied at each location and said records shall be available for inspection at reasonable times by the county.
- (5) *Fire, police, emergency medical services and county emergency management facilities.* Existing fire, police, emergency medical services and county emergency management center facilities are exempt from the prohibitions of this article.
- (6) *Potable water utilities.* Potable water utilities are exempt from sections 28-266(a)(11), (12), (13), and (17) to the extent necessary to operate water treatment facilities in WHPA One. Utilities shall eliminate the use of liquid fuels for backup generators whenever possible. Provisions shall be made for aboveground and secondary containment when liquid fuels will continue to be used.

(Ord. No. 94-8, § 7, 6-27-94)

Sec. 28-268. Registration of potential pollution sources.

Any nonresidential facility or activity with Hernando County, other than the continuous transit through the county, that uses, handles, produces, stores or disposes of regulated substances in quantities greater than twenty-five (25) gallons (approximately ninety-five (95) liters) if liquid or greater than two hundred twenty (220) pounds

(100 kilograms) if solid in a calendar month shall be required to register with the county within forty-five (45) days of the effective date of this article. Registration forms shall be provided by the county.

(Ord. No. 94-8, § 8, 6-27-94)

Sec. 28-269. Sinkholes.

- (a) All new and existing sinkholes shall be reported to the Hernando County Emergency Services Department and the Southwest Florida Water Management District. Sinkholes shall be reported prior to backfilling. Hernando County will maintain a data base of the geographical locations of all reported sinkholes.
- (b) Backfill material shall be clean and of similar or lower permeability of the surrounding soil. It shall be a violation of this article to dispose of regulated substances, solid waste, untreated stormwater or other inappropriate substances in a sinkhole.
- (c) Sinkholes that occur in existing detention/retention ponds shall be filled with clean fill material of similar permeability to surrounding soil which will not reduce storage within the ponds and will not allow for short-circuiting of the treatment process.

(Ord. No. 94-8, § 9, 6-27-94)

Sec. 28-270. New community water supply locations.

Prior to siting of new community water supply wells, the utility shall model WHPAs for the proposed wells using the methodology and data provided by the county. No community public water supply wells will be allowed into an area that would incorporate existing prohibited uses in the WHPA. However, if the only such prohibited use is a mining or borrow pit, the wells may be sited if the utility can demonstrate control of the mining or borrow pit.

(Ord. No. 94-8, § 10, 6-27-94)

Sec. 28-271. Fees.

All fees and deposits shall be established by the board of county commissioners by resolution. All fees collected under the provisions of this article shall be used to help defray the cost of implementing this article and/or to provide for measures to protect the public in the event of spills.

(Ord. No. 94-8, § 11, 6-27-94)

Sec. 28-272. Appeals.

- (a) Any determination made pursuant to this article may be appealed by a substantially affected person at a hearing before the board of county commissioners. Appeals to the board of county commissioners shall be filed within thirty (30) days after receipt of written notice or publication of notice in a newspaper of general circulation, whichever occurs first, of the determination that is being appealed by filing written notice with the county administrator. Hearings before the board of county commissioners shall be de novo. Upon a hearing any party may appear in person, by agent or by attorney.

Required notice for appeals:

- (1) The county administrator shall publish, or cause to be published, a notice of the time, place and purpose of the hearing in a newspaper of general circulation in the county at least ten (10) days prior to the hearing.

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- (2) The county administrator shall mail, or cause to be mailed, notices setting forth the time, place and purpose of the hearing. When a specific parcel is involved, these notices shall be mailed to the property owner, the owner/operator of the affected well(s) and all property owners within five hundred (500) feet of the WHPA boundary in question.

Notice shall be mailed to the owner's current address of record maintained by the assessor of taxes of the board of county commissioners and shall be postmarked no later than ten (10) days prior to the scheduled hearing date. An affidavit or mailing certification verifying compliance with the notice requirement of this section, along with a list of the persons and addresses to which notices were mailed, shall be kept on file and made available at the time of the hearing.

- (3) The applicant shall post the property with signs furnished by the county noticing the public hearing.
 - (4) The applicant shall pay all costs and expenses in connection with public notice of such hearing and related notices in addition to any other fee required for administration.
- (b) In any appeal, the facility subject to the provisions of this article may request in writing a determination from the county that any requirement of this article should not apply to such a facility and shall request approval of alternate procedures.
- (1) The request shall set forth at a minimum the following information:
 - a. The facility for which an exemption is sought;
 - b. The specific provision of this article from which relief is sought;
 - c. The basis for the relief;
 - d. the alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the groundwaters of the county as the established requirement; and
 - e. The alternate procedure or requirement is at least as effective as the established procedure or requirement in this article.
 - (2) The county commission shall approve or deny alternate procedures using the criteria in subsection (b)(1) above and shall provide written notice of such action.

(Ord. No. 94-8, § 12, 6-27-94)

Sec. 28-273. Administration.

- (a) Implementation and enforcement of this article shall be by county staff as assigned by the county administrator.
- (b) County staff shall review this article and recommend such changes as are necessary to ensure its continuing equivalency with state statutory and regulatory provisions.
- (c) Sections 28-268, 28-269 and 28-274 through 28-276 are not intended to duplicate existing state or federal regulatory provisions but are intended only to apply to those activities to which existing state or federal regulations are not currently applicable.

(Ord. No. 94-8, § 13, 6-27-94)

Sec. 28-274. Inspections.

- (a) *Appointment and authority of inspection staff.* The board of county commissioners shall appoint staff, who shall be charged and provided with the authority to administer this article and to enforce the regulations and procedures contained herein. Hernando County inspectors, in the performance of their duties and functions, may enter upon any land and make examination and surveys that do not occasion damage or injury to private property.
- (b) *Cause for issuance of administrative warrant.* In the event a person with authority at a facility does not permit an inspection, such refusal shall 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 said premises.
- (c) *Authority to enter vacant or abandoned premises.* In the event a building, structure or land appears to be vacant or abandoned and the property owner cannot be readily contacted to obtain consent for an inspection, the county-designated inspector may enter into or upon any of the unsecured portion of the premises in order to conduct an inspection thereof.
- (d) *Identification.* County-designated inspectors shall be provided with official identification and shall exhibit such identification when making any inspection.
- (e) *Law enforcement officers to assist.* It shall be the duty of all law enforcement officers to assist in making any inspections when such assistance is requested by the designated county inspectors.

(Ord. No. 94-8, § 14, 6-27-94)

Sec. 28-275. Reporting of spills and unauthorized discharges.

- (a) Any unauthorized discharge of a regulated substance(s) in excess of five (5) gallons if a liquid or twenty-five (25) pounds if a solid shall be reported immediately by the facility owner, operator or other responsible party to the county. Such notification shall in no way alleviate the owner, operator or responsible party from other local, state or federal reporting obligations required by law. The owner, operator, responsible party or person providing notification shall inform the county of the substance(s) discharged, the amount, location, duration of discharge and the potential hazard to groundwater, if known.
- (b) A discharge of any quantity of a regulated substance must be remediated such that contamination of soils, surface water or groundwater is brought into compliance with local, state and/or federal standards.
- (c) Clean-up activities shall begin concurrent with or immediately following emergency response activities. A full written report including the steps taken to contain and clean up the spill shall be submitted to the county within forty-five (45) days of the discovery of the spill.
- (d) Any person responsible for a spill or unauthorized discharge shall be subject to the cleanup and reimbursement provisions in this article.

(Ord. No. 94-8, § 15, 6-27-94)

Sec. 28-276. Enforcement.

- (a) *Cleanup and reimbursement.* Any person subject to this article shall be liable for any damage caused by a regulated substance(s) present on or emanating from the person's property, including motor vehicles, for all costs of removal or remedial action incurred by Hernando County, and damages for injury to, destruction of or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss

resulting from the release of a regulated substance. Such removal or remedial action by Hernando County may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment and cleanup or disposal of regulated substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

- (b) *Penalties.* In addition to other penalties provided by this article, any person, organization, society, association, corporation or any agent or representative thereof who violates any provision of this article shall, upon adjudication or conviction, be subject to the penalties described below. Each day of continued violation after receipt of written notice may constitute a separate offense.
- (1) Reserved.
 - (2) *Civil penalties.* Civil infractions of this article shall be handled according to the provisions of the Hernando County Code Enforcement Ordinance.
 - (3) Hernando County shall create a pollution recovery trust fund into which will be paid penalties collected as a result of enforcement of the provisions of this article. The pollution recovery trust fund will be used for cleanup and response to spills or other discharges. Such costs may include retaining staff to serve on a response team, purchasing of absorbent materials and retention of contractors for assessment activities. Nothing in this article shall preclude the county from seeking reimbursement from those parties responsible for the discharge.
- (c) *Injunctive relief.* If any person who engages in activities regulated by this article uses, handles, produces, stores or disposes of regulated substances or otherwise continues to operate in violation of the provisions of this article, then Hernando County may file for injunctive relief in a court of competent jurisdiction.

(Ord. No. 94-8, § 16, 6-27-94; Ord. No. 2004-09, § 14, 7-13-04)

Secs. 28-277—28-290. Reserved.