

ORDINANCE NO. 3077

AN ORDINANCE TO PROVIDE FOR PROTECTION OF THE CITY OF FAIRBURY WELLHEAD PROTECTION AREA PURSUANT TO SECTION 17-536 OF THE REVISED STATUTES OF NEBRASKA BY ESTABLISHING LIMITATIONS UPON THE LOCATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY TO THE MUNICIPAL WATER SUPPLY; TO ESTABLISH RULES AND REGULATIONS DEFINING AND ENFORCING SUCH LIMITATIONS; TO PROVIDE PROCEDURES FOR IMPLEMENTATION OF RULES AND REGULATIONS; TO PROVIDE FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, Section 17-536 of the Revised Statutes of Nebraska provides that the jurisdiction of the City to prevent pollution or injury to the source of its water supply shall extend 15 miles beyond its corporate limits;

WHEREAS, pursuant to the Nebraska Wellhead Protection Area Act, Sections 46-1501 to 46-1509 of the Revised Statutes of Nebraska, the Mayor and City Council have adopted a Wellhead Protection Plan which has been approved by the Nebraska Department of Environmental Quality.

WHEREAS, the Fairbury Wellhead Protection Area identified by said plan includes the following described real estate:

East Wells:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 2 NORTH, RANGE 3 EAST OF THE SIXTH P.M., JEFFERSON COUNTY, NEBRASKA; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTION 17, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 17; THENCE SOUTHERLY ON THE EAST LINE OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID NORTH HALF OF SECTION 19; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTH HALF OF SECTION 19, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID NORTH HALF OF SECTION 19; THENCE WESTERLY ON THE SOUTH LINE OF THE NORTH HALF OF SECTION 24, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID NORTH HALF OF SECTION 24; THENCE NORTHERLY ON THE WEST LINE OF SAID NORTH HALF OF SECTION 24, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 2 EAST; THENCE NORTHERLY ON THE WEST LINE OF SAID SECTION 13, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SECTION 13; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 13, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE EAST HALF OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 2 EAST; THENCE NORTHERLY ON THE WEST LINE OF SAID EAST HALF OF SECTION 12, A DISTANCE OF 3600 FEET, MORE OR LESS, TO THE CENTERLINE OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD; THENCE NORTHEASTERLY ON SAID RAILROAD CENTERLINE, A DISTANCE OF 2100 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID EAST HALF OF SECTION 12; THENCE EASTERLY ON SAID NORTH LINE, A DISTANCE OF 1300 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID EAST HALF OF SECTION 12; THENCE EASTERLY ON THE NORTH LINE OF SECTION 7, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 7; THENCE NORTHERLY ON THE WEST LINE OF THE SOUTH HALF OF THE SOUTH HALF OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 1320 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE SOUTH HALF OF SECTION 5; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTH HALF OF SECTION 5, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID

SOUTH HALF OF THE SOUTH HALF OF SECTION 5; THENCE EASTERLY ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4; THENCE SOUTHERLY ON THE EAST LINE OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, A DISTANCE OF 1320 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4; THENCE SOUTHERLY ON THE EAST LINE OF THE WEST HALF OF SECTION 9, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID WEST HALF OF SECTION 9; THENCE SOUTHERLY ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF SECTION 16; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 16, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 16; THENCE SOUTHERLY ON THE EAST LINE OF SAID SECTION 17, TOWNSHIP 2 NORTH, RANGE 3 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 4700 ACRES, MORE OR LESS.

Crystal Springs:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE SIXTH P.M., JEFFERSON COUNTY, NEBRASKA; THENCE SOUTHERLY ON THE EAST LINE OF SAID SECTION 16, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE SOUTHERLY ON THE EAST LINE OF SECTION 21, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 21; THENCE WESTERLY ON THE SOUTH LINE OF SECTION 20, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 20; THENCE SOUTHERLY ON THE EAST LINE OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE NORTH HALF OF SAID SECTION 30; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTH HALF OF SECTION 30, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID NORTH HALF OF SECTION 30; THENCE SOUTHERLY ON THE EAST LINE OF SECTION 25, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID SECTION 25; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 25; THENCE WESTERLY ON THE SOUTH LINE OF SECTION 26, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE WESTERLY ON THE SOUTH LINE OF SECTION 27, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 27; THENCE WESTERLY ON THE SOUTH LINE OF THE EAST HALF OF SECTION 28, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID EAST HALF OF SECTION 28; THENCE NORTHERLY ON THE WEST LINE OF SAID EAST HALF OF SECTION 28, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID EAST HALF OF SECTION 28; THENCE NORTHERLY ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SOUTHEAST



QUARTER; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ON THE NORTH LINE OF THE SOUTH HALF OF SECTION 22, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SOUTH HALF OF SECTION 22; THENCE NORTHERLY ON THE WEST LINE OF SECTION 23, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SECTION 23; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 23, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 23; THENCE NORTHERLY ON THE WEST LINE OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SECTION 13; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 13, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 13; THENCE EASTERLY ON THE NORTH LINE OF SECTION 18, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 18; THENCE EASTERLY ON THE NORTH LINE OF SECTION 17, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 17; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 16, TOWNSHIP 2 NORTH, RANGE 2 EAST, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 8800 ACRES, MORE OR LESS.

Hereinafter called the “Wellhead Protection Area”;

WHEREAS, it is necessary to place limitations upon the location of potential sources of pollution or injury to the municipal water supply within the Wellhead Protection Area and to prescribe rules and regulations with respect to such limitations and the enforcement thereof;

WHEREAS, the County of Jefferson has adopted zoning regulations which are applicable to portions of the real estate included with the Wellhead Protection Area, and, for purposes of consistency, definitions set forth in such county regulations should be utilized in interpretation of Wellhead Protection regulations where ambiguities exist and particular words or phrases are not defined by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FAIRBURY, NEBRASKA:

Section 1. The findings set forth above are hereby made a part of this ordinance as fully as if set out at length herein.

Section 2. Words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. Definitions set forth in Jefferson County Zoning regulations shall be applied in the event of any ambiguity or uncertainty in the interpretations of the rules and regulations established by this ordinance.

Section 3. It shall be unlawful for any person to place, install, construct or replace any of the following structures or conduct any of the following activities within the Wellhead Protection Area, except as may be provided therein, to-wit:

- Activity
- Non-potable water well
- Sewage lagoon
- Absorption or disposal field for waste
- Cesspool
- Dump
- Livestock confinement facilities/operation
- Pit toilet
- Sanitary landfill
- Chemical or petroleum product storage

- Septic tank
- Sewage treatment plant
- Sewage wet well
- Sanitary sewer connection
- Sanitary sewer manhole
- Sanitary sewer line
- Sanitary sewer line (Permanently water tight)

Section 4. The placing, installing, constructing or replacing of any structure or activity as set forth in Section 3 of this ordinance, hereinafter term “wellhead structure or activity”, within the Wellhead Protection Area shall not be permitted after the effective date of this ordinance unless a permit approved by the Wellhead Protection Administrator has been obtained. The owner of any wellhead structure or activity shall have the burden of establishing the existence and use of said wellhead structure or activity at the time of the effective date of this ordinance.

Section 5. No permit shall be issued by the Wellhead Protection Administrator within the following set-back distance from any City of Fairbury municipal water well:

<u>Activity</u>	<u>Minimum Distance from Public Water Supply (measured in feet)</u>
Non-potable water well	1,000
Sewage lagoon	1,000
Absorption or disposal or leach field for waste	500
Cesspool (illegal anywhere)	500
Sanitary landfill	1,000
Livestock confinement facilities/operation	1,000
Pit toilet	1,000
Chemical or petroleum storage	1,000
Septic tank	500
Lawn & garden recycling compost	1,000
Fertilizer and pesticide storage	1,000
Septic tank (GPD exceeding 1,000)	1,000
Sewage treatment plant	1,000
Sewage wet well	1,000
Sanitary sewer connection	100
Sanitary sewer manhole	100
Sanitary sewer line	50
Sanitary sewer line (permanently water tight)	10

Any activity described above location within the defined set-back distance shall be considered prima facie a hazard to the quality of the municipal water supply.

Section 6. The Board of Public Works of the City of Fairbury, Nebraska shall be responsible for implementation and enforcement of the rules and regulations established by this ordinance and shall consider all applications filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The Board of Public Works shall designate one of its employees as Wellhead Protection Administrator, which employee shall be charged with administration of the rules and regulations.

Section 7. Any wellhead structure or activity not prohibited by Section above, shall be allowed upon determination by the Board of Public Works that such activity does not constitute a hazard or threat to the quality of the municipal water supply and upon issuance of a permit by the Wellhead Protection Administrator.

Section 8. Prior to placing, installing, constructing, expanding or replacing any wellhead structure or activity, the owner of the real estate upon which the structure or activity is proposed shall file with the Wellhead Protection Administrator an application for a wellhead structure or activity permit. Said application shall be on a form furnished by the Wellhead Protection Administrator and shall include supporting information indicating why approval would not adversely impact the City’s municipal water supply. The Wellhead Protection Administrator shall thereafter submit the application to the Board of



Public Works for consideration. Prior to acting upon such application, the Board of Public Works may seek an engineering report, recommendations of the Little Blue Natural Resources District, the Nebraska Department of Environmental Quality or any other party or agency in evaluating the impact of the proposed structure or activity on the municipal water supply. A permit shall be issued if the Board of Public Works determines that the structure or activity is unlikely to contaminate or pollute the water supply.

Section 9. Wellhead structures or activities in existence and use in the Wellhead Protection Area as of the effective date of this ordinance shall continue to be permitted unless such continued existence or use, in the opinion of the Board of Public Works of the City of Fairbury, presents a hazard to the quality of the municipal water supply. If the Board of Public Works determines that an existing wellhead structure or activity presents a hazard, the Board of Public Works shall authorize the Wellhead Protection Administrator to notify the owner of the structure or activity to cease and desist said structure or activity. If the owner of the wellhead structure or activity desires to continue operation of said structure or activity, the owner may seek to procure a permit pursuant to this ordinance. If the owner does not cease and desist pursuant to such notice, the Wellhead Protection Administrator may proceed pursuant to Section 10 of this ordinance against said owner and/or the wellhead structure or activity.

Section 10. Any person found violating any provision of this ordinance shall be subject to a fine not to exceed \$500.00. The continuation of a violation of this ordinance shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the City may obtain injunctive relief and sue for damages and remediation, and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters.


Section 11. Should any section, paragraph, sentence or word of this ordinance hereby adopted by declared for any reason to be invalid, it is the intent of the Mayor and City Council of the City of Fairbury that it would have passed all other portions of this ordinance independent of the elimination hereof of any such portion as may be declared invalid.


Section 12. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 13. This ordinance shall take effect and be in full force and effect from and after its passage and publication according to law.

PASSED AND APPROVED this 18th day of September, 2018

Attest:

  
Carissa Lufkin, City Clerk

  
Homer Ward, Mayor

