

ORDINANCE NO. 2848

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:

Section 13; South Half (S $\frac{1}{2}$) of Section 14; South Half (S $\frac{1}{2}$) of Section 15; Sections 22, 23, 24, 25, 26, 27, 34, 35 and 36, all in Township Two (2) North, Range One (1) East of the Sixth P.M. in Jefferson County, Nebraska.

East Half (E $\frac{1}{2}$) of Section 10; Sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21; North Half of the North Half (N $\frac{1}{2}$ -N $\frac{1}{2}$) of Section 22; North Half of the North Half (N $\frac{1}{2}$ -N $\frac{1}{2}$) of Section 23; North Half of the North Half (N $\frac{1}{2}$ -N $\frac{1}{2}$) of Section 24; Sections 28, 29, 30 and 31; North Half of Section 32; Northwest Quarter (NW $\frac{1}{4}$) of Section 23; all in Township Two (2) North, Range Two (2) East of the Sixth P.M. in Jefferson County, Nebraska;

Sections 5, 6, 7 and 8; Northwest Quarter (NW $\frac{1}{4}$) of Section 17; and Section 18; all in Township Two (2) North, Range Three (3) East of the Sixth P.M. in Jefferson County, Nebraska;

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 within 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 interpretation 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 herein, 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 termed "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 distances 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 located 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 5 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.

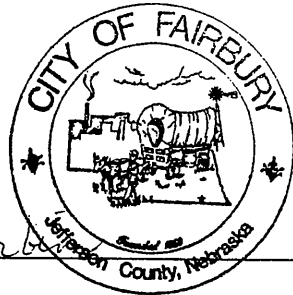
Section 10. Any person found violating any provision of this ordinance shall be subject to a fine not to exceed \$500.00. The continuation of a violation of this ordinance shall be deemed an additional crime for every 24 hours of such continued violation. In addition the City may obtain injunctive relief 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 be 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 6th day of August 2002.



David K. Beasley
David K. Beasley, Mayor

Attest:

Becky Corbin
Becky Corbin
City Clerk