

ORDINANCE NO. 97 - 4

AN ORDINANCE OF THE VILLAGE OF CERESCO, SAUNDERS COUNTY, NEBRASKA, TO PROVIDE, PURSUANT TO NEB.REV.STAT. §17-536, LIMITATIONS UPON THE LOCATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY TO THE MUNICIPAL WATER SUPPLY WHICH EFFECTS THE QUALITY AND/OR QUANTITY OF SUCH WATER SUPPLY; TO PROVIDE DEFINITIONS; TO SPECIFY POTENTIAL SOURCES OF POLLUTION OR INJURY; TO DELINEATE THE AREA SURROUNDING THE EXISTING AND FUTURE MUNICIPAL WATER WELLS TO BE PROTECTED; TO PROVIDE A PROCEDURE FOR THE POSSIBLE LOCATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY WITHIN THE WELLHEAD CAPTURE ZONE IF CERTAIN CRITERIA HAVE BEEN MET; TO PROVIDE FOR THE CONTINUATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY IN EXISTENCE AS OF THE DATE OF THIS ORDINANCE UNLESS SUCH CONTINUED EXISTENCE PRESENTS A HAZARD TO THE MUNICIPAL WATER SUPPLY; TO PROVIDE A PENALTY FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR THE SEVERABILITY OF ANY PORTION OF THIS ORDINANCE; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, Neb.Rev.Stat. §17-536 provides as follows:

"The jurisdiction of such . . . village, to prevent any pollution or injury to the stream or source of water for the supply of such waterworks, shall extend fifteen miles beyond its corporate limits."

and,

WHEREAS, the municipal water wells of the Village of Ceresco, Nebraska, and the site for a future municipal water well, are located more than one mile beyond the corporate limits of the Village of Ceresco but within 15 miles of the Village of Ceresco, and specifically within the following described parcel of real estate, to wit:

The Southwest Quarter of the Southeast Quarter of Section 16-13-7, Saunders County, Nebraska; and,

WHEREAS, the aforementioned State Statute grants authority to the Board of Trustees to the Village of Ceresco to find that it is in the best interest of, and serves the public's purpose, for there to be regulations governing and controlling the use of land within specified areas around the municipal water supply of the Village of Ceresco so as to prevent any pollution or injury to the source of water which supplies the municipal water system, and,

WHEREAS, the Nebraska Safe Drinking Water Act, Neb.Rev.Stat. §71-5301 et. seq., authorizes the State of Nebraska, through its Director of the Nebraska Department of Health and Human Services, to promulgate rules and regulations regarding location of the

public water supply systems and the location of potential sources of pollution or injury which may adversely affect the quality of water from such supply systems, which rules and regulations are applicable to the public water supply system of the Village of Ceresco, Nebraska, and,

WHEREAS, Title 179, Chapter 2, Regulations Governing Public Water Supply Systems promulgated by the Nebraska Department of Health and Human Services sets forth, in Section 008.02 that "All public water supply systems shall adopt and carry out a preventive maintenance program . . . to protect the system and its components from encroachments which are likely hazards to the safety of the drinking water quality, or which could have a substantial impact on the system pressure or economies delivered by the system", and,

WHEREAS, the Lower Platte South Natural Resources District, a political subdivision of the State of Nebraska, which encompasses the Village of Ceresco and the area adjacent to the existing and future municipal water wells of the Village of Ceresco, Nebraska, has, pursuant to applicable statutes of the State of Nebraska, developed a Ground Water Management Plan, which, as it pertains to the Village of Ceresco, Nebraska, includes and delineates wellhead capture zones for the existing municipal wells of the Village of Ceresco, Nebraska, and,

WHEREAS, pursuant to the rules and regulations of the State of Nebraska, Department of Health and Human Services, and the Lower Platte South NRD, the following areas are areas in which there exists the need for regulations regarding the location of existing and future potential sources of pollution or injury to the public water supply of the Village of Ceresco, to wit:

1. The Southeast Quarter of the Southeast Quarter of Section 16-13-7, Saunders County, Nebraska.
2. The West Half of the Southeast Quarter of Section 16-13-7, Saunders County, Nebraska.
3. The Southwest Quarter of the Southwest Quarter of Section 16-13-7, Saunders County, Nebraska, lying East of U.S. Highway 77.
4. The South Half of the Southeast Quarter of Section 17-13-7, Saunders County, Nebraska.
5. The Northeast Quarter of Section 20-13-7, Saunders County, Nebraska.
6. The Northeast Quarter of the Southeast Quarter of Section 20-13-7, Saunders County, Nebraska.

7. The North Half of the Northeast Quarter of Section 21-13-7, Saunders County, Nebraska.
8. The Southwest Quarter of the Northeast Quarter of Section 21-13-7, Saunders County, Nebraska.
9. The Northwest Quarter of Section 21-13-7, Saunders County, Nebraska.
10. The North Half of the Southwest Quarter of Section 21-13-7, Saunders County, Nebraska.

hereinafter called the Wellhead Capture Zone.

NOW, THEREFORE, BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF CERESCO, SAUNDERS COUNTY, NEBRASKA, AS FOLLOWS:

Section 1. That the findings made above should be and are hereby made a part of this Ordinance as fully as if set out at length herein.

Section 2. For purposes of this Ordinance, certain terms or words used herein shall be interpreted as contained within this section. The present tense includes the future tense; the singular number includes the plural and the plural number includes the singular. Unless specifically defined below, 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.

WATER WELL. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground or extracting water from or injecting water into the underground water. It shall not include any excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried or inserting media to repressure oil or natural gas bearing formations.

FEEDLOT. The feeding, farrowing or raising of cattle, swine, sheep, poultry or other livestock, in a confined area where grazing is not possible, where confinement is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds the Animal Units per acre as defined below. The term feedlot shall include, but not be limited to the area of the confined feeding operation, the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Animal units (AU) are defined as:

1 Steer @1000#'s = 1 AU

.7 Dairy Cattle = 1 AU

- 3.3 Sows = 1 AU
- 3.3 Hogs = 1 AU
- 5 Nursery Pigs = 1 AU
- .5 Horses/Donkeys = 1 AU
- .5 Exotic Animals (Llamas, Ostriches, Emu or the like = 1AU)
- 55.5 Turkeys = 1 AU
- 100 Poultry = 1 AU
- 10 Sheep = 1 AU

A. For a parcel of contiguous real estate of less than 40 acres - 1 AU per acre, or fraction thereof.

B. For a parcel of contiguous real estate of over 40 acres but less than 80 acres - 2 AU per acre or fraction thereof.

C. For a parcel of contiguous real estate of over 80 acres - 3 AU per acre, or fraction thereof.

CHEMICAL OR PETROLEUM PRODUCT STORAGE. The storage of chemical and/or petroleum products for which a permit is required from the Nebraska Department of Environmental Quality, or its successor.

Section 3. It shall be unlawful for any person to place, construct, or replace any of the following structures or conduct any of the following activities within the aforementioned Wellhead Capture Zone, except as may be provided herein, to wit:

CATEGORY

- Non-Potable Water Well
- Sewage Lagoon
- Absorption or Disposal Field
for Waste
- Cesspool
- Dump
- Feedlot
- 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, constructing or replacing of any structure or activity as set forth in Section 3 of this Ordinance, hereinafter termed a "Section 3 Structure or Activity", within the aforementioned Wellhead Capture Zone shall not be permitted, after the effective date of this Ordinance, unless a permit approved by the Village Board of Trustees has been

obtained. The owner of any "Section 3 Structure or Activity" shall have the burden of establishing the existence and use of said "Section 3 Structure or Activity" at the time of the effective date of this Ordinance.

Section 5. The Chairman and Board of Trustees may consider the placing, constructing, or replacing of a "Section 3 Structure or Activity" within the Wellhead Capture Zone. Said placement, construction, or replacement shall be allowed only if the following procedure is utilized:

- A. An application must first be filed with the Village Clerk along with supporting information indicating why approval would not adversely impact the Village's municipal water supply.
- B. The Chairman and Board of Trustees shall refer the application and supporting information to its engineer for evaluation and report.
- C. In addition thereto, the Chairman and Board of Trustees may submit the application, and supporting information, together with the engineer's report, to the Lower Platte South Natural Resources District for its recommendations.
- D. The Chairman and Board of Trustees shall consider the supporting information, its engineer's report, the recommendations of the Lower Platte South Natural Resources District, and any additional information submitted by the Applicant. In reaching its decision on whether to allow the placement, construction, or replacement of a "Section 3 Structure or Activity", as above defined, the Chairman and Board of Trustees must act to prevent all sources of possible or likely water pollution or injury. Preference for approval will be given to Section 3 Structures or Activities that do not disturb any water bearing strata.
- E. No "Section 3 Structure or Activity" shall be commenced after the effective date of this Ordinance without the approval of the Chairman and Board of Trustees of the Village of Ceresco.

Section 6. "Section 3 Structures or Activities" in existence and use in the Wellhead Capture Zone, as of the effective date of this Ordinance, shall continue to be permitted unless such continued existence or use, in the opinion of Chairman and Board of Trustees of the Village of Ceresco presents a hazard to the quality or quantity of the drinking water available for public use as the Village's drinking water. If the Chairman and Board of Trustees determine that an existing

"Section 3 Structure or Activity" presents a hazard to the quality or quantity of the drinking water available for public use as the Village's drinking water, the Board of Trustees shall authorize the Chairman to notify the owner of the "Section 3 Structure or Activity" to cease and desist said structure or activity. If the owner of the "Section 3 Structure or Activity" desires to continue said "Section 3 Structure or Activity", said owner shall proceed pursuant to Section 5 of this Ordinance. If said owner does not cease and desist said "Section 3 Structure or Activity" pursuant to said notice, the Chairman may proceed pursuant to Section 7 of this Ordinance against said owner and/or the "Section 3 Structure or Activity".

Section 7. Any person found violating any provision of this Ordinance shall be subject to a fine, not to exceed \$100.00. 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 Village 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 8. 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 Chairman and Board of Trustees of the Village of Ceresco 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 9. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 10. This ordinance shall take effect and be in full force and effect from and after its passage and publication according to law.

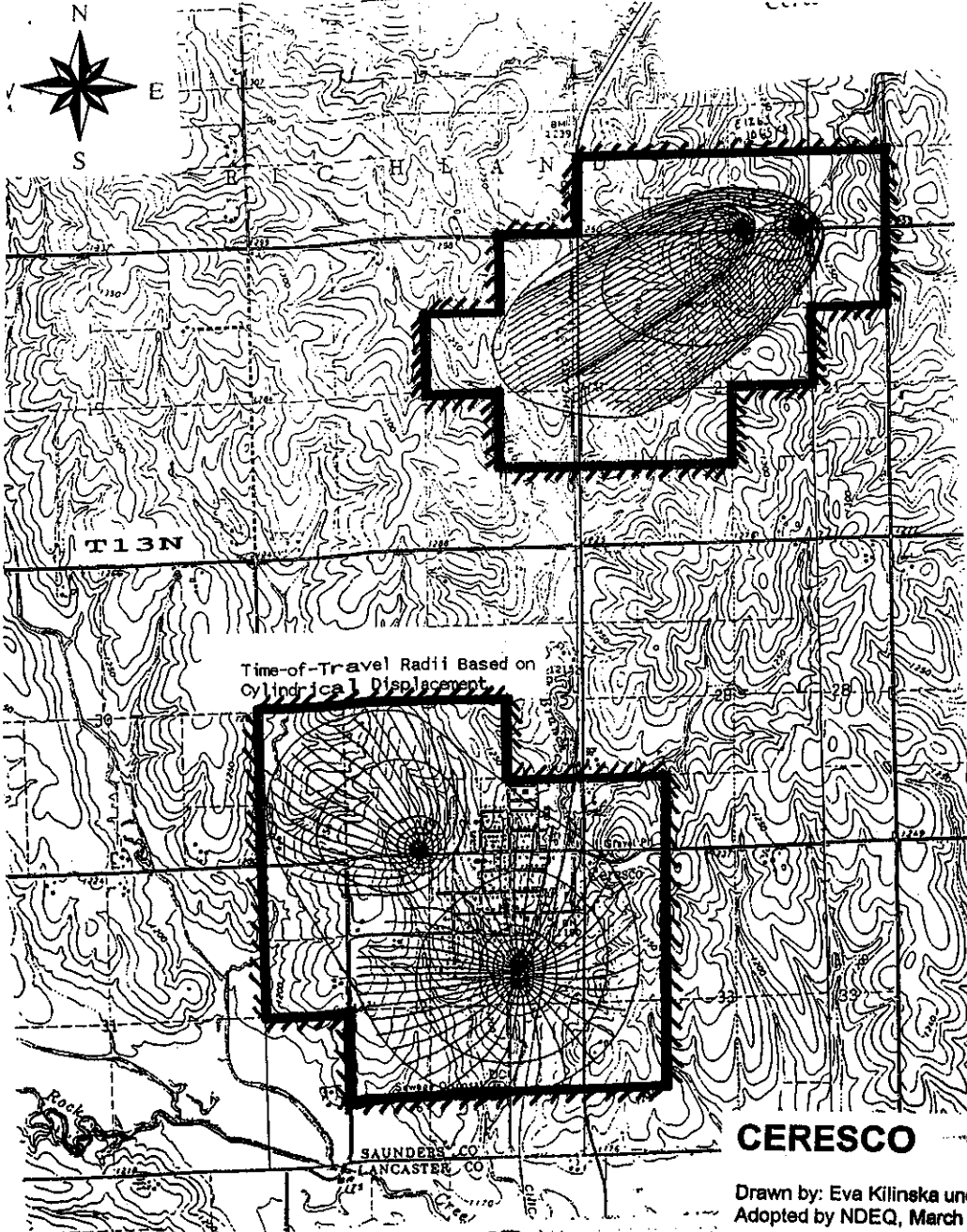
PASSED AND APPROVED THIS _____ DAY OF _____, 1997.

VILLAGE OF CERESCO, NEBRASKA

by _____
Ward Hageman, Its Chairman

ATTEST:

Joan Lindgren, Village Clerk
(SEAL)



CERESCO Saunders County

Drawn by: Eva Kilinska under contract to LPSNRD, July 1996
Adopted by NDEQ, March 1997