

**Village of Millington
Ordinance Number 72
Groundwater Protection Ordinance**

THE VILLAGE OF MILLINGTON ORDAINS:

I. PURPOSE

The Village of Millington has determined that:

- 1) The groundwater underlying the Village is the sole source of the Village's drinking water.
- 2) Groundwater aquifers are integrally connected with, and flow into the surface water, lakes and streams, which constitute significant public health, recreational and economic resources of the Village.
- 3) Spills and discharges of petroleum products, sewage and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the Village of Millington has enacted an ordinance to:

- 4) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge area of the Village, and protect them from adverse development or land-use practices.
- 5) Preserve and protect present and potential sources of drinking water supply for public health and safety.
- 6) Conserve the natural resources of the Village
- 7) Protect the financial investment of the Village in its drinking water supply system and to meet state requirements for wellhead protection.
- 8) Assure that the state regulations, which help protect groundwater, are implemental consistently when new or expanded development proposals are reviewed.

II. DEFINITIONS

- 1) **AQUIFER:** A geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of groundwater to wells or springs.
- 2) **BEST MANAGEMENT PRACTICES:** Measures, either managerial or structural to prevent or reduce pollution to soil, surface water or groundwater.

- 3) **DEVELOPMENT:** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
- 4) **ENVIRONMENTAL CONTAMINATION:** The release of a hazardous substance, or the potential release of a discarded substance, in a quantity, which is or may become injurious to the environment, or to the public health, safety, or welfare.
- 5) **FACILITY:** Any building, structure, or installation from which there may be a discharge of pollutants.
- 6) **HAZARDOUS SUBSTANCE:** A chemical or other material, which is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but not limited to, hazardous substances as defined in the comprehensive environmental response, compensation, and liability act of 1980, public law 96-510, 94 Stat. 2767: "hazardous waste" as defined in the hazardous waste management act, Act No. 64 of the Public Acts of 1979, being sections 299. 501 to 299.551 of the Michigan Compiled Laws: "petroleum" as defined in the leaking underground storage tank act, Act No. 478 of the Public Act of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws.
- 7) **PRIMARY CONTAINMENT FACILITY:** A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.
- 8) **SECONDARY CONTAINMENT FACILITY:** A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground water, or surface waters, of any pollutant, which may emanate from said storage container or containers.

III. SCOPE

These provisions shall apply to all business and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), and which require site plan review under the provision of this ordinance.

IV. GENERAL PROVISIONS

1. Groundwater Protection Standards:

- a) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to insure the absence of any impairment, pollution, and/or destruction water, and to insure the absence of any impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
- b) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland: water body, or watercourse and

shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.

c) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with the Village's sewer treatment regulations.

d) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and not permitted discharges to air surface of the ground, groundwater, lakes, streams, river, or wetlands.

e) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

f) In determining conformance with the standards in this zoning ordinance, the Village shall take into consideration the publication "Small Business Guide to Secondary Containment River Watershed Council, 1991, and other applicable references.

g) Bulk storage of pesticides shall be in accordance with Regulations No. 640, Commercial Pesticide Bulk Storage, of Act 171 of the Public Acts of 1976, as amended, being section 286.569

2. Aboveground Storage and Use Areas for Hazardous Substances and Polluting Material:

a) Primary containment of hazardous substances shall be product tight.

b) Secondary containment shall be sufficient to store the substance for the maximum anticipated of time necessary for the recovery of any release substance. Products held in containers of 10 gallon or less packaged for retail use shall be exempt from this item.

c) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including and allowance for the expected accumulation of precipitation.

d) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer systems, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtain pursuant to applicable requirements of Acts 245.

e) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent not permitted discharges to floor drains, rivers, lakes, wetland, groundwater, or soils.

3. Underground Storage Tanks:

- a) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental protection Agency and the State Police Fire Marshall Division.
- b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the State Police Fire Marshall Division. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by Village officials for five years.
- c) Underground storage tanks taken out of service permanently shall be emptied and permanently closed in accordance with the requirements of State Police Fire Marshall Division, and the Michigan Department of Natural Resources.

4. Well Abandonment:

Out of service water wells shall be sealed and abandoned with applicable requirements of the Michigan Department of Public Health Well Construction Unit.

5. Site with Contaminated Soils and/or Groundwater:

- a) Site plans shall take into consideration the location and extent of any contaminated soils, and/or groundwater on the site, and the need to protect public health and the environment.
- b) Development shall not be allowed on contaminated areas of a site unless information from the Michigan Department of Natural Resources is available indicating that the cleanup will proceed in a timely fashion.

6. Construction Standards:

- a) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetland may be improper.
- b) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and not permitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. Any storage container over 25 gallons, or 220 pounds containing hazardous substances shall have secondary containment.
- c) If the contractor will be storing or handling hazardous substances that require a manufacturer's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
- d) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the

construction site by the responsible contractor, and shall be disposed of, recycled, or reused in a proper manner as prescribed by applicable State and Federal Regulations.

7. Maintenance:

In areas where Hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemical to soil and groundwater. Cracks and holes in the floors, foundations and walls must be repaired in areas where chemicals are handled or stored. Chemicals must be removed when violations are discovered in accordance with state law.

V. REVIEW REQUIREMENTS

1. Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site, use, loading/unloading, recycling, or disposal of Hazardous Material.
2. Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, and all similar uses.
3. Specify location of exterior drains, dry walls, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
4. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.
5. Submit "Hazardous Materials Reporting Form for Site Plan Review."
6. Submit "State/County Environmental Permits Checklist."
7. Refer to Village Site Plan Standards & Requirements for groundwater protection

VI. CONDITIONS FOR APPROVAL OR DENIAL

The Planning Commission, upon reviewing site plan, shall take one of the following actions:

1. Approval:

If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval and the Chairman shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the Building Inspector, and one to the applicant.

2. Disapproval:

If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.

3. Conditional Approval:

Conditions on approval of the site plan may be imposed meeting the requirements the specified in the City/Village Zoning Enabling Act. Conditions must be:

- a) Designed to protect natural resources, and the health, safety, and welfare and the social and economic well being of residents, neighbors, and the community as a whole.
- b) Related to the valid exercise of the police power.
- c) Necessary to meet the purposes of the Zoning Ordinance and related to the standards established in the Zoning Ordinance for the land use or activity under consideration.

4. Table:

If the site plan is found to be in violation of improvements or requirements, incomplete with respect to necessary information or presetting a unique situation, the Plan Commission may table the site plan until a public hearing can be scheduled to determine specific improvements requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

VII. EXEMPTIONS AND WAIVERS

The transportation of any hazardous substance shall be exempt from the provisions of this ordinance provided the transporting motor vehicle or rail is in transit, or that it is transporting substances to or from a state licensed hazardous waste treatment, storage, or disposal facility.

- 1. Meets the intent of this section as well as its specific criteria.
- 2. Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district;
- 3. Will not adversely affect an existing or potential domestic or municipal water supply; and is consistent with existing and probable future development of surrounding areas.

In addition to the findings described above, the decision shall include an explanation of the reason for any variation to the requirement.

VIII. PENALTIES AND COSTS

1. Falsifying Information:

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any method required under the Ordinance, shall be fined upon conviction not more than five hundred (\$500.00) dollars.

2. Violations:

Any person or persons who is found to have violated an Order of the Village or who willfully or negligently fails to comply with any provision of this Ordinance and the orders, rules, and regulations and permits issued there under, shall be fined upon conviction not more than five hundred (\$500.00) dollars.

Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules, regulation, and permits issued there under.

Any person or persons violating any of the provisions of this Ordinance shall be liable to the Village for any expense, loss, or damage caused by such violation. The Village shall bill the person or persons for the costs incurred by the Village (caused by the violation).

IX. SEVERABILITY

If any provision, paragraph, work, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

YEAS: Beck, Coleman, S. Fackler, Dean, Ward, Reinert

NAYS: None

ABSENT: ~~S.C. Fackler~~

Ordinance declared adopted

First Reading: July 1, 2002

Second Reading: July 8, 2002

Rebecca Kochenderfer 7-8-02
Rebecca Kochenderfer, Village Clerk Date

Gailan Reinert 7-8-02
Gailan Reinert, President Date

I, Rebecca Kochenderfer, Clerk of the Village of Millington hereby certify that the above ordinance was published by insertion in The Millington and Lakeville Messenger, a newspaper circulating within the Village of Millington on this 19th day of July, 2002.

Rebecca Kochenderfer
Rebecca Kochenderfer, Village Clerk