

# GROUNDWATER USE RESTRICTIONS

Village of Millington, County of Tuscola, State of Michigan

ORDAINS:

ORDINANCE NO. 89

AN ORDINANCE to protect and promote the public health, safety and welfare by regulating the extraction and use of groundwater in areas of the Village with known, or having the potential of having been contaminated by, releases as per Parts 201 and 213 of Public Act 451 of 1994, being the Natural Resources and Environmental Protection Act of 1994, as amended.

## SECTION 1. Short Title

This ordinance shall be known as the "Groundwater Use Restriction Ordinance".

## SECTION 2. Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**A. "Abandoned well"** shall have the meaning provided in Part 127 of Act 368 of the Public Acts of 1978, as amended.

**B. "Act"** shall mean Part 127 of Act 368 of the Public Acts of 1978, as amended.

**C. "Village"** shall mean the Village of Millington.

**D. "Village Water Service"** shall mean the water supplied by the Village of Millington.

**E. "Health Department"** shall mean the Health Department or any successor entity or agency having jurisdiction from time to time in and to the impact area lands.

**F. "Impact Area"** shall mean those lands situated in the Village of Millington, County of Tuscola, State of Michigan with known, or having the potential of having been contaminated by, releases as per Parts 201 and 213 of Public Act 451 of 1994, as amended begin the Natural Resources and Environmental Protection Act of 1994.

**G. "Well" "Water Well"** shall mean any opening in the surface of the earth for the purpose of removing fresh water in any quantity and for any purpose through non-mechanical or mechanical means.

## SECTION 3: Private Water Wells Prohibited

Except as provided in Section 4 no person, firm, corporation, association or other entity shall install, construct, develop, expand, modify, use or maintain a water well as defined above within any impact area for any purpose whatsoever. Please note

that no well whatsoever is to be installed without first notifying the Health Department and if necessary, paying a fee or fees to obtain all required permits and approvals from that agency prior to any such installation, construction, development, expansion, modification, use or maintenance. Such wells shall be installed, constructed and maintained in conformity with said Act and any restrictions or additional requirements imposed by the Health Department as part of the approval process. Further provided, that no potable water well shall be installed, constructed, developed, expanded, modified, used or maintained if the property upon which such well is located or proposed lies within three hundred (300) feet of any Village Water Service distribution line as outlined in the attached Exhibit A.

#### **SECTION 4: Exceptions**

A person may install or utilize, or allow, permit, or provided for the installation or utilization of, a well within the Impact Area if any of the following exceptions applies and the requirements of the exception are complied with.

**A. *Groundwater Monitoring.*** A well may be used for groundwater monitoring and/or remediation as part of response activity approved by MDEQ.

**B. *Construction Dewatering.*** A well may be used for construction dewatering, if the following conditions are satisfied. (1) The use of the dewatering well will not result in the unacceptable exposure to contaminated groundwater, possible cross contamination between saturated zones, or hydro geological effects on contaminated groundwater plumes and (2) the water generated by that activity is properly handled and disposed of in compliance with all rules, regulations, permit, and license requirements, order and directives of any governmental entity or agency of competent jurisdiction. Any exacerbation caused by the use of the well under this exception shall be the responsibility of the person operating the dewatering well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, being MCL 324.20101 to 324.20142.

**C. *Irrigation Wells.*** A well may be used for irrigation, if the following conditions are satisfied. (I) The well must be approved by the local Health Department and the MDEQ. (II) The use of the irrigation well will not result in the unacceptable exposure to contaminated groundwater, possible cross contamination between saturated zones, or hydro geological effects on contaminated groundwater plumes. (III) All information needed to justify the use of irrigation well within the Ordinance Area will be the burden of the entity that is applying for the well. The requirements needed to justify irrigation well are available from the Central Michigan District Health Department Arenac Branch in Standish, Michigan. Any exacerbation caused by the use of the well under this exception shall be the responsibility of the person operating the irrigation well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, being MCL 324.20101 to 324.20142.

## **SECTION 5. Abandoned Wells**

Within thirty (30) days of the effective date of this Ordinance, all existing wells shall be abandoned and plugged by the well owner or a licensed well drilling contractor, unless the well meets the requirements for an exception pursuant to Section 4 of this Ordinance. The manner in which such well is plugged shall be in compliance with this Ordinance.

## **SECTION 6. Non-Conforming Wells**

All wells lawfully in existence as of the effective date of this Ordinance and which do not comply with any provision of this Ordinance shall be deemed legal non-conforming uses for a period of 30 days from and after said effective date. Upon the expiration of said 30 day period, all such non-conforming wells shall either be considered abandoned in accordance with applicable Health Department and Michigan Department of Environmental Quality rules and regulations, or specifically permitted and approved by said Health Department subject to and in accordance with 3 above. Such non-conforming wells shall be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction, or in the absence of an applicable law, rule, regulation, requirement, order, directive, in conformance with the protocol developed consistent with the American Society of Testing and Materials standard #D5299-92.

## **SECTION 7. Modifications – Department of Environmental Quality Notifications**

The Village shall give no less than thirty (30) days' notice prior to the effective date of any modification, amendment or repeal of this Ordinance.

## **SECTION 8. Enforcement**

That the Village Clerk or other authorized Village representative, as well as any Health Department official, may enter the lands upon which any well being subject to this Ordinance is situated or proposed, and for the purposes of inspecting such lands and well and maintaining compliance with the provisions of this Ordinance.

A violation of this Ordinance or any provision hereof shall be deemed a misdemeanor, and subject to a penalty of not more than \$500 and/or imprisonment not to exceed 90 days for each offense; any such violation shall as well constitute a nuisance *per se*, and the Village shall have all remedies available under law or equity for purposes of obtain the abatement of such violation and compliance herewith. In the event a civil action is commenced by the Village to enforce this Ordinance or any provision thereof and a violation is found to exist, the violating party shall be further liable unto the Village for its actual costs and attorney fees incurred in bringing such proceedings.

## **SECTION 9. Repealer**

All Village Ordinance or provisions thereof that conflict with the provisions of this Ordinance are hereby repealed to the extent necessary to give full force and effect to this Ordinance.

**SECTION 10. Severability**

Should any term, phrase, clause, provision, section or sub-section of this Ordinance be declared by a court of competent jurisdiction as null, void or invalid, the balance of this Ordinance not affected by such declaration shall be deemed separate and distinct and shall remain in full force and effect.

YEAS: Bassett, Bonadurer, Dean, Fackler, Springsteen, Reinert

NAYS: None

ABSENT: Cobb

ADOPTED: March 10, 2014

Kaylene Long	3/10/14
Village Deputy Clerk	Date

Gailan Reinert	3/10/14
President	Date

I, Kaylene Long, Deputy Clerk of the Village of Millington hereby certify that the above ordinance was published by insertion in The Millington Herald, a newspaper circulating within the Village of Millington on this 20<sup>th</sup> day of March, 2014.

Kaylene Long  
Village Deputy Clerk

# Village of Millington

## Exhibit "A"

