

**VILLAGE OF MUIR  
(Ionia County, Michigan)**

**Ordinance No. 63**

**AN ORDINANCE TO PROVIDE FOR AND REGULATE THE PROTECTION OF GROUNDWATER RESOURCES IN THE VILLAGE OF MUIR.**

WHEREAS, the Village of Muir, County of Ionia, State of Michigan (the "Village"), has determined that certain groundwater underlying areas including Village of Muir is currently, or may be in the future, the sole source of the Village's drinking water supply; and

WHEREAS, groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the Village and surrounding area; and

WHEREAS, Spills and discharges of 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; and

THEREFORE, the Village has enacted this Groundwater Protection Ordinance to protect existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village and to preserve the natural resources of the Village and the surrounding area.

**63.1 DEFINITIONS**

1. **ABANDONED OPERATIONS:** Any property that is unoccupied for at least thirty (30) days and to which one or more of the following applies:
- Is open to casual entry;
  - Has one or more windows boarded;
  - Has utilities disconnected;
  - Is unsafe for occupancy or the general public, or is a visual blight adversely affecting the general welfare of the area;
  - Is under notice for being in violation of Article 5 of the Village of Muir Ordinance.
  - Is the subject of indebtedness to the Village for more than one year;
  - Because of disrepair or lack of maintenance, is in a condition that makes it apparent to the public that the structure is in fact unoccupied.

Abandoned operations do not include a property that is actively listed by a licensed real estate broker.

2. **AQUIFER:** A subsurface water-bearing layer of soil, sand, gravel, or rock that will yield usable quantities of water to a well.
3. **CHEMICAL ABSTRACT SERVICE (CAS) NUMBER:** This is a unique number for every chemical which indexes information published in "Chemical Abstracts" by the American Chemical Society.
4. **CONTAMINATION:** An impairment of water quality by hazardous substances, whether or not it affects the potential or intended beneficial use of water.
5. **HAZARDOUS SUBSTANCE:** A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, any of the following which are stored or generated in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) per month, and which require site plan review under provisions of this ordinance.
- Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, Public Law 96.510, 94 State. 2767;
  - Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
  - Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;

- d. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
  - e. Polluting Material as defined in Part 5 rules promulgated pursuant to Part 31 of the of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
  - f. Used oil;
  - g. Raw sanitary sewage;
  - h. Biohazards; and
  - i. Radiological materials.
6. POLLUTION INCIDENT PREVENTION PLAN (PIPP): A PIPP includes a polluting material inventory, a site diagram depicting the locations of the polluting materials, emergency response procedures, and secondary containment details. Sites are subject to Michigan's Part 5 Rules if they store oils and other polluting materials above established threshold management quantities (TMQs), which are:
- a. Salt in solid form at quantities of five (5) tons (10,000 pounds) or more.
  - b. Salt in liquid form at 1,000 gallons or more.
  - c. Petroleum products in an aboveground storage tank (AST) or container with a capacity of 660 gallons or greater or an aggregate aboveground storage capacity of 1,320 gallons.
  - d. All other polluting materials specified in Part 5 that are used, stored, or otherwise managed in a discrete outdoor location, with a total storage quantity of 200 kilograms (kg) (440 pounds) or more.
  - e. All other polluting materials specified in Part 5 that are used, stored, or otherwise maintained at a discrete indoor location, with a total storage quantity of 1,000 kg (2,200 pounds) or more.
7. PROPERLY PLUGGED ABANDONED WELL: A well that has been closed in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the local Health Department. A permit is required to bring a properly plugged abandoned well back into service.
8. PROPERTY OWNER: A person, public corporation, authority, or a political subdivision of the State or a combination of any of these entities, that holds an ownership interest in land, whether recorded or not. An ownership interest means ownership by one person or by different private entities if the land is owned in joint interest or by members of the same immediate family.
9. SECONDARY CONTAINMENT: A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.
10. SPILL PREVENTION CONTROL AND COUNTERMEASURE (SPCC) PLAN: As detailed in 40 CFR Part 112, sites are subject to the SPCC rules if (1) they store either more than 1,320 gallons of petroleum products aboveground and (2) they present a reasonable risk to a navigable water of the United States (including via storm water and groundwater). An SPCC Plan details site oil storage, spill potential, and emergency response and notification procedures. The SPCC Plan is required to be certified by a registered Professional Engineer.
11. STORM WATER POLLUTION PREVENTION PLAN (SWPPP): As detailed in 40 CFR Part 122, sites that are required to have a storm water permit are also required to have SWPPPs that detail hazardous substances exposed to storm water as well as controls to prevent releases.
12. UNDERGROUND STORAGE TANK (UST): A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 211 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
13. UNPLUGGED ABANDONED WELL: A well which has not been used for one year or more.
14. WASTE OIL: Any oil that has been (a) refined from crude oil, (b) used, or, as a result of such use, (c) contaminated by chemical impurities.
15. WELL: As defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules; or a permanent or temporary opening in the surface of the earth for the purpose of removing water, testing water quality, measuring water characteristics, measuring liquid levels, oil and gas exploration or production, waste disposal, dewatering purposes, or for geothermal heat exchange purposes, or for a cistern of a depth of 4 feet or more and with a top width of 12 inches or more.
16. WELLHEAD PROTECTION AREA: The area which has been approved by the EGLE or succeeding agency in accordance with the State of Michigan Wellhead Protection Program, which represents the surface and subsurface area surrounding a water well or well field, which supplies a public water system, and through

which contaminants are reasonably likely to move toward and reach the water well or well field within a ten year time of travel.

### **63.2 APPLICABILITY**

1. USES SUBJECT TO SITE PLAN REVIEW: Except as provided in Section 63.6, "EXEMPTIONS AND WAIVERS". This ordinance applies to all building permit requests.

### **63.3 PROHIBITIONS WITHIN TEN (10) YEAR TIME-OF-TRAVEL (TOT) WELLHEAD PROTECTION AREA**

1. For any parcel of land that has a portion within a ten-year Wellhead Protection Area, the following are prohibited at any location on the parcel:

- a. Operations of a scrap and recycling yard.
- b. Operations of a sanitary/solid waste landfill.
- c. Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression. The use of plant-based oil, such as soybean oil, is not prohibited.
- d. Installation of a private well if, in the determination of the Village Council upon recommendation of the Village's Water Operator, public water service is reasonably available.
- e. Excavation, extraction, or mining of sand, gravel, bedrock, or any other type of earth if a permit or site plan review is required.
- f. Unplugged abandoned wells.
- g. The process of fracking or otherwise drilling for natural gas or petroleum, whether for exploration or production.
- h. Drilling, direct-push and other earth penetration beyond 15 feet deep from surface grade unless
- i. borehole(s) are sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil, to within 2 feet of surface grade.

### **63.4 SITE PLAN REVIEW**

1. SITE PLAN REVIEW PROCEDURES: Applicable projects under this Ordinance shall include:

- a. Existing and proposed deed restrictions, if any.
- b. Location and outline of all existing septic tanks and drain fields.
- c. The location of any floor drains in existing and proposed structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan. Only metered Village Water is to be discharged to the Village's sanitary system.
- d. Location of existing and proposed public and private drinking water wells, monitoring wells, irrigation wells, test wells, wells used for industrial processes or wells that have no identified use.
- e. Inventory of hazardous substances to be stored, used or generated on-site, presented in a format acceptable to the Village and Fire Department (include CAS numbers).
- f. Description and drawings showing size and location for any existing and proposed aboveground and underground storage tanks, piping lines and dispensers.
- g. Descriptions of type of operations proposed for the project and drawings showing size, location, and description of any proposed interior or exterior areas of structures for storing, using, loading or unloading of hazardous substances.
- h. Reported delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of cleanup or closure.
- i. Completion of Village of Muir Environmental Permits Checklist.

### **63.5 CRITERIA FOR REVIEW**

1. Criteria for Review will include:

- a. The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands.
- b. Storm water detention, retention, transport, and drainage facilities shall, inasmuch as feasible, be designed to use or enhance the natural storm water system on-site, including the storage and filtering capacity of wetlands, watercourses, and water bodies, and/or the infiltration capability of the natural landscape. Storm

water facilities shall be designed so as not to cause flooding or the potential for pollution of surface or groundwater, on-site or off-site.

- c. Sites that at any time use, store or generate hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- d. If required by state or federal law, properties using hazardous substances are required to have a Spill Prevention Control and Countermeasure (SPCC) Plan, a Pollution Incident Prevention Plan (PIPP), and/or a Storm Water Pollution Prevention Plan (SWPP).
- e. General-purpose floor drains that discharge to groundwater are generally prohibited.
- f. Hazardous substances stored on the site before, during or after site construction shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Secondary containment facilities shall be provided for above ground storage of hazardous substances in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly, into a sewer system, or into the waters of the State (including groundwater).
- g. Secondary containment facilities shall be provided for aboveground storage of hazardous substances in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly into a sewer system, or into the waters of the State (including groundwater).
- h. Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of the State of Michigan and the County Health Department.
- i. Completion of the Village of Muir Environmental Permit Checklist.

#### **63.6 EXEMPTIONS AND WAIVERS**

1. Village parcels inside or outside of the Wellhead Protection Area that cannot obtain public water with a pressure of at least 35 lbs are excluded from the Section 63.3 Prohibition of a private well.
2. A limited exclusion from this ordinance is hereby authorized as follows:
  - a. The site plan review criteria of Section 63.5 do not apply to hazardous substances packaged for personal or household use or present in the same form and concentration as a product packaged for use by the general public. The total excluded substances containing hazardous substances may not exceed the lesser of two hundred (200) gallons or one thousand (1000) pounds at any time.
  - b. The site plan review criteria of Section 63.5 do not apply to products held in containers with a volume of less than 40 gallons and packaged for retail use.
3. Residential family dwellings proposed for development outside of the "DESIGNATED" wellhead protection areas are exempt from the site plan review criteria of Section 63.5.

#### **63.7 ABANDONED OPERATIONS**

1. This section applies to residences, businesses or other operations. Those who own or control abandoned operations shall do the following:
  - a. Within seven (7) days of becoming an abandoned operation, take such steps as necessary to secure the site such that vandals and all other persons cannot gain access to the hazardous substances.
  - b. Within thirty (30) days of becoming inactive, provide to the Village and the Fire Department a document that identifies the site, the date of inactivity, the hazardous substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site.
  - c. Within six (6) months of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting or systems.

#### **63.8 ENFORCEMENT**

- a. Any person violating any provision of this Ordinance shall be deemed responsible for a civil infraction, and upon an admission of responsibility or a finding of responsibility, shall be subject to payment of a civil fine of not less than \$50.00 or more than \$500.00, plus costs and other sanctions, including but not limited to injunctive relief, for each infraction.

- b. Repeat offenses shall be subject to increased fines in accordance with this section.
- c. The increased fine for a repeat offense under this section shall be as follows: 1. The fine for any offense which is a first repeat offense shall be no less than \$75.00 or more than \$500.00, plus costs and other sanctions; and, 2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$100.00 or more than \$500.00, plus costs and sanctions.

### **63.9 EXCEPTION/ALTERNATIVE MEANS OF COMPLIANCE**

1. The Village may allow exception from the strict enforcement of the ordinance if an owner of property believes the requirements of the Ground Water Protection ordinance pose an unreasonable burden and if the owner submits in writing to the Village alternative means that comply with the intent of the provisions of the ordinance. The material, method or work offered must be, for the purpose intended, at least the equivalent of that prescribed in this ordinance in effectiveness for the protection of ground water resources.

### **63.10 INJUNCTIVE RELIEF**

1. If a person has violated or continues to violate the provisions of this Ordinance, the Village may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations or compelling the person to perform necessary abatement or remediation.

### **63.11 APPEALS**

Any person who has been cited for a violation of this chapter or has been ordered to take action to comply with the provisions of this chapter may appeal in writing to the village council of the Village of Muir not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed and the basis for the appeal. The village council shall consider the appeal and decide whereby the action being appealed is affirmed, rejected or modified. In considering any such appeal, the village council may consider the recommendations of the authorized enforcement agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the village council may grant a temporary variance from the terms of this chapter so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- a. The application of the ordinance provisions being appealed will present or cause unnecessary hardship for the property or premises owner appealing; provided, however, that unnecessary hardship shall not include the need for a property or premises owner to incur additional reasonable expenses in order to comply with the part; and,
- b. The granting of the relief requested will not prevent accomplishment of the goals and purposes of this chapter, nor result in less effective management of groundwater.

In order that the provisions of this article may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of these sections, the village zoning board of appeals shall consider appeals from the decision of the village council and to determine, in particular cases, whether any deviation from strict enforcement will violate the intent of this article or jeopardize the public health or safety or environment.

Appeals from orders of the village council may be made at the zoning board of appeals of the Village of Muir, within 30 days from the date of any citation, order, charge, fee, surcharge, from the date of any citation, order, charge, fee, surcharge, penalty or other action. The appellant shall file a notice of appeal with the zoning board of appeals, specifying the grounds therefor. Prior to a hearing, the village council shall transmit to the zoning board of appeals a summary report of all previous action taken. The zoning board of appeals may, at its discretion, call upon the village council to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reversing, modifying, or affirming, in whole or in part, the appealed decision or determination.

The decision of the zoning board of appeals shall be final, except that the board or the members thereof may be required, under proper mandamus proceedings, to show cause why certain actions were taken or decisions rendered.

All charges for service, penalties, fees, or surcharges outstanding during any appeal process shall be due and payable to the village. Upon resolution of any appeal, the village shall adjust such amounts accordingly.

If an appeal is not demanded within the periods specified in this section, the administrative action shall be deemed final. In the event of an appeal, action shall be suspended until a final determination has been made, except for immediate cease and desist orders or any emergency or judicial action.

Appeals from determinations of zoning board of appeals may be made to the circuit court for the county as provided by law. The appeals shall be governed procedurally by the Administrative Procedures Act of 1969 (MCL 24.201 et seq.). All findings of fact, if supported by the evidence, made by the board shall be conclusive upon the court. "

### **63.12 SEVERABILITY**

1. If any provision, paragraph, work, section, or article of the ordinance from which this article is derived 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.

### **Section 14. Effective Date**

This ordinance must be published and recorded as provided in the Village Charter and takes effect on the date of publication, but not less than twenty (20) days after its adoption by the Village Council.

### **BOARD ACTION**

Motion by Trustee Stewart, supported by Trustee Vanderwerff to adopt Ordinance 63, An Ordinance to Provide for and Regulate the Protection of Groundwater Resources in the Village of Muir

Roll Call Vote:

Ayes: Trustees Piselli, Vanderwerff, Garber, Nelson, Stewart, President Hyland

Nays: none

Absent: Trustee Kacos

### **MOTION CARRIED**

Certified proceedings: Susan Craft, Muir Village Clerk, October 11, 2022

Introduced: September 13, 2022

Adopted: October 11, 2022

Published: October 15, 2022

Effective: October 15, 2022