

**CITY OF IONIA**  
**Ordinance No. 544**

**AN ORDINANCE TO AMEND CHAPTER 1040 ENTITLED WATER GENERALLY OF TITLE FOUR – UTILITIES OF PART TEN – STREETS, UTILITIES AND PUBLIC SERVICES CODE – OF THE CODIFIED ORDINANCES OF THE CITY OF IONIA**

**THE CITY OF IONIA HEREBY ORDAINS:**

**PART TEN – STREETS, UTILITIES AND PUBLIC SERVICES CODE**  
**TITLE FOUR – Utilities**  
**Chapter 1040 – Water Generally**

**Section 1040.21 entitled Water Well Restrictions shall be amended as follows:**

**1040.21 WATER WELL RESTRICTIONS.**

(a) Findings. The City Council has been informed and hereby finds that an aquifer in certain areas of the City has been contaminated or otherwise adversely impacted by hazardous substances and that identified public health, safety and welfare risks may affect drinking water drawn from certain areas of such impacted aquifers. The City Council has determined that it is necessary and appropriate to prohibit or otherwise restrict the use of wells to supply water in and from the affected areas in order to protect City residents by minimizing the health, safety and welfare risks and minimizing the potential for migration of contaminated groundwater into presently unaffected groundwater.

(b) Definitions. As used in this section:

(1) "Affected parcel" means a parcel of land, any part of which is located within a restricted zone.

(2) "Applicant" means a person who applies or applied for the establishment of a restricted zone pursuant to this section.

(3) "City property" means any interest in real property owned or held by the City and shall include but not be limited to the following:

- A. Real property owned by the City;
- B. Real property leased by the City as lessee; and
- C. City streets, alleys or other City rights-of-way or easements.

(4) "Contaminated groundwater" means groundwater in which there is present concentrations of hazardous substances that exceed drinking water criteria under the Safe Drinking Water Act, 1976 PA 399, as amended, or the residential drinking water criteria established by the MDEQ in rules promulgated pursuant to Part 201, Environmental Remediation, M.C.L.A. 324.20101 et seq.

(5) "Domestic use" means the use of water by humans for drinking, cooking, food preparation and other food-related services, cleaning, washing, bathing and similar household-type water uses in any dwelling, or in any building in which commercial/business, governmental/public or industrial activities are conducted. The term does not include water used solely for closed-loop heat pumps, non-contact cooling, production, or processing purposes of commercial or industrial enterprises.

(6) "Irrigation use" means the use of water for lawn, garden, or landscaping irrigation on a residential parcel of land. The term also includes water used for commercial, agricultural, or farm irrigation. A well used primarily for irrigation uses shall connect to the Water Supply System and shall be plugged/abandoned, unless such use is allowed by the MDEQ and is consistent with any of the exceptions found in division (e) of this section.

(7) "MDEQ" means the Michigan Department of Environmental Quality, or its successor agency.

(8) "Owner" means the holder of record title for a parcel of land and also the occupant of a parcel of land in possession under a land contract or lease.

(9) "Part 201" means Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act (NREPA), M.C.L.A. 324.20101 et seq., as amended.

(10) "Part 213" means Part 213, Leaking Underground Storage Tanks, NREPA, M.C.L.A. 324.21301 et seq., as amended.

(11) "Person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

(12) "Restricted zone" means an area or areas described within division (c) of this section for which the prohibition of wells and the use of groundwater applies, ~~and includes parcels of land that are legally described and depicted in the map(s) attached to Ordinance No. 513 as Appendix 1, as amended from time to time as provided in this section.~~

(13) "Well" means an opening in the surface of the earth for the purpose of removing groundwater through non-mechanical or mechanical means for any purpose other than a public emergency or conducting response actions that are consistent with NREPA, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, or other applicable statute.

(c) Restricted Zone. The following described areas in the City shall be a restricted zone under this section. It may be referred to by reference to the name provided in the caption preceding its description. Additional restricted zones, along with a map illustrating the restricted zone and legal descriptions of all affected parcels, may be added by amending the section in accordance with divisions (k) and (l) of this section and all other applicable laws.

(1) Cleveland Street Restricted Zone. The Cleveland Street Restricted Zone is legally described below and depicted in the map attached to Ordinance No. 513 as Appendix 1.

~~(2)~~ (1a) Legal Description: Beginning at the Center of Section 20, T7N, R6W, City of Ionia, Michigan; thence along the North-South 1/4 line, South 469 feet; thence East 922 feet; thence South 343 feet to the North line of the Pere Marquette Railroad right-of-way; thence along said North line, East 300.5 feet to a point lying 99 feet West of the East line of the NW 1/4 of the SE 1/4 of said Section 20; thence South 315 feet, more or less, to the Grand River; thence along the bank of the Grand River to the East line of Mill Street extended; thence along the East line of Mill Street extended, North 559 feet, more or less, to a point lying 441 feet South of the centerline of the Pere Marquette Railroad; thence West 33 feet to the centerline of Mill Street; thence along said centerline, North 66 feet; thence East 33 feet to the East line of Mill Street; thence along said East line, North 375 feet, more or less, to the South line of the Pere Marquette Railroad right-of-way; thence Southeasterly along said South line 933.6 feet to a line lying 17.75 feet East of the West line of Lot 119 extended, Merritt's Addition to the City of Ionia as recorded in Liber M, Page 774; thence parallel with the West line of Lot 119, North 265 feet; thence West 17.75 feet to the West line of Lot 110 of said Merritt's Addition; thence along said West line, North 101 feet, more or less, to the Northwest corner of Lot 110; thence along the North line of Lot 110, East 462 feet, more or less, to the West line of Cleveland Street; thence along the West line of Cleveland Street, North 165 feet, more or less, to the South line of Bayard Street; thence along the South line of Bayard Street, East 594 feet, more or less, to the North-South 1/4 line of said Section 20; thence along said North-South 1/4 line, South 75 feet, more or less, to the Center of said Section 20 and the Point of Beginning.

- (3) (1b) Property Tax Id. Nos.:  
203-240-000-020-00  
203-240-000-040-00  
203-240-000-045-00  
203-240-000-120-00  
203-240-000-220-00  
204-120-000-240-00  
204-120-000-240-01  
204-140-000-005-10  
204-140-000-005-20

(2) Dexter Street Restricted Zone. The Dexter Street Restricted Zone is legally described below and depicted in the map attached to Ordinance No. 543 as Appendix 1.

(2a) Legal Description:

- THE S 92 FT OF LOT 21 OF SUP HUTCHINS ADD TO CITY OF IONIA; ALSO A PARCEL OF LAND 6 FT N AND S BY 188 FT E AND W LYING S OF AND ADJ TO LOT 21; ALSO LOT 20 EXC S 80 FT; ALSO N 40 FT OF LOT 21.

- CITY OF IONIA SUP HUTCHINS ADDITION S 40FT OF LOT 20. ALSO THE N 40 FT OF S 80 FT OF LOT 20.

- CITY OF IONIA SUP HUTCHINS ADDITION LOT 15.

- CITY OF IONIA SUP HUTCHINS ADDITION LOT 14.

(2b) Property Tax Id. Nos.:

201-130-000-075-00

201-130-000-080-00

201-130-000-085-00

201-130-000-095-00

(d) Prohibition. Except as provided in division (e) of this section, no person shall install or utilize, or allow, permit, or provide for the installation or utilization of a well on any affected parcel. Any existing well at the time of the enactment of a restricted zone on any affected parcel within that restricted zone shall be plugged/abandoned at the expense of the applicant for that particular restricted zone and as provided for in division (f) of this section and in accordance with applicable laws, regulations and ordinances, unless such existing well falls within one of the exceptions listed in division (e). Except as provided in division (e), no person shall use any groundwater from an affected parcel.

(e) Exceptions. A person may install or utilize, or allow, permit, or provide for the installation or utilization of a well in any restricted zone if any of the following exceptions applies and the person complies with the requirements of the exception. The party proposing an exception to the well prohibition shall conduct all appropriate inquiry and prepare a due care analysis pursuant to Part 201 or Part 213 of NREPA.

(1) Proof of No Influence. If the MDEQ determines based on information provided to it by the person seeking this exception that the use of a well in a restricted zone will not exacerbate existing groundwater contamination, and that water from the proposed well will not be affected by contaminated groundwater or that water from the proposed well does not pose a threat to human

health or the environment, and proof of those determinations is delivered to the City, the well may be so used.

(2) Groundwater Monitoring/Remediation. A well may be used for groundwater monitoring or remediation as part of a response activity approved by the MDEQ, the United States Environmental Protection Agency, or their successor agencies.

(3) Construction Dewatering. A well may be used for construction dewatering if the following conditions are satisfied: (i) the use of the dewatering well will not result in unacceptable exposure to contaminated groundwater, possible cross-contamination between saturated zones, or exacerbation of contaminated groundwater, as defined in Part 201 or Part 213 of NREPA; and (ii) the water generated by that activity is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, orders 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 or Part 213 of NREPA.

(4) Processing Activities. If the MDEQ determines that the use of a well for non-contact heating, cooling, production, or processing involved in industrial or commercial activities will not cause migration or exacerbation of contaminated groundwater, and proof of that determination is delivered to the City, such use of the well under terms and conditions specified by the MDEQ will be allowed. All information necessary for the MDEQ determination described in this division shall be provided by the person seeking this exception.

(5) Public Emergencies. A well may be used in the event of a public emergency. Notice of such use shall be provided to the MDEQ within a reasonable time thereafter.

(f) Sources of Water Supplied for Domestic Use and Irrigation Use.

(1) For affected parcels that have a well and are not already connected to the Water Supply System on the day of enactment of a restricted zone, the applicant of the restricted zone shall be responsible for the costs to connect those affected parcels within that restricted zone to the Water Supply System. Furthermore, for affected parcels that have a well on the day of enactment of a restricted zone that is used primarily for irrigation uses, the applicant of the restricted zone shall be responsible for the costs to connect the irrigation system on the affected parcel within that restricted zone to the Water Supply System.

(2) This section shall not be deemed as affecting the rights and remedies of an owner, or any other person or entity or of any federal, state or local government that may exist under any law, regulation, rule, ordinance, order, agreement, or remedial action plan addressing groundwater within the City.

(3) In no event shall the City be required to incur any expense or cost under this section, except as may otherwise be approved by the City Council for a public works project or by a separate agreement with the applicant, owner, other person or entity, or a governmental body or agency.

(g) Enforcement. The City Manager, or his or her designee, shall be the official having the authority to enforce this section. After the effective date of this section, the enforcement official shall contact all owners of affected parcels, which from the information available to the City, appear to have wells prohibited under this section, giving written notice of the need to cease using such wells and of the need for establishment of a domestic use water source as prescribed under division

(f) of this section, or to obtain approval or acknowledgment of an exception under division (e). The owner shall immediately take steps to comply with the provisions of this section with regard to provision of domestic use water within 60 days from the date of such notice. Any existing well in violation of this section shall then be plugged or abandoned in conformance with applicable legal requirements. Where, upon information available to the enforcement official, it is suspected that a well is being used on an affected parcel in violation of this section, the enforcement official may inspect such affected parcel and serve an appropriate notice and order of such violation requiring that action be taken promptly by the owner to bring the affected parcel into compliance. If the owner fails to act in accordance with such order, the enforcement official may seek remedies and penalties as provided in division (h) of this section.

(h) Penalty. Any person who violates any provision of this section shall be liable for a municipal civil infraction under the provisions of Section [202.99\(b\)](#). In addition, the City may seek an order from a court of appropriate jurisdiction requiring compliance with this section and may also seek collection of costs and attorney fees associated with such enforcement action. Any violation of this section is a public nuisance, subject to abatement, and any well in violation of this section shall be immediately taken out of service and lawfully abandoned in compliance with applicable legal requirements. A court of competent jurisdiction may order any person violating any provision of this section to properly and lawfully remove or abandon a well.

(i) Building and Zoning Permits. No permit for the construction or alteration of a building or structure nor any permit for any zoning approval shall be issued by the City Building and Zoning Administrator for any improvement on an affected parcel that has, or proposes, a water supply from a well in violation of this section.

(j) Administrative Liability. No officer, agent or employee of the City or member of the City Council shall render himself or herself personally liable for any damage that may occur to any person or entity as the result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to the section.

(k) Amendment; Repeal. The MDEQ, an applicant, an owner, an entity involved in a response or cleanup plan or other interested party may request in writing to add parcels to or delete parcels from a restricted zone or to establish an additional restricted zone or to otherwise amend or repeal this section, and shall provide advance notice to the MDEQ and any applicant for such restricted zone of any proposed change hereunder, including the reasons supporting such request. The City on its own motion and upon advance notice to the MDEQ and any applicant for such restricted zone, may also take action to amend or repeal this section as it deems appropriate. The amendment or repeal of this section shall be by an appropriate ordinance adopted in the same manner as this section unless the amendment is for a release regulated pursuant to Part 213. If an amendment to this section is sought for a release regulated pursuant to Part 213, then this section or an amendment to this section shall be filed with the register of deeds as an ordinance affecting multiple properties. Any action to amend or repeal this section shall be in the sole legislative discretion of the City Council and shall comply with the publication and notice requirements of [Chapter 2.13](#) of the City Charter.

(l) Notification of Lapse, or Intent to Amend or Repeal. At least 30 days prior to any action regarding a proposed amendment or repeal in whole or in part of this section, the City shall notify the MDEQ and any applicant of its intent to so act. The City shall also notify the MDEQ and any applicant that this section may lapse at least 30 days prior to the section being allowed to lapse.

(m) Severability. The City shall promptly notify the MDEQ and any applicant upon the occurrence of any event described in Section [202.05](#) resulting in one or more provisions of this section being severed.

(n) Reimbursement of Additional City Construction Costs. The Applicant of a restricted zone shall reimburse the City for the reasonable additional costs the City incurs for dewatering contaminated groundwater or disposing of soils impacted by contaminated groundwater in connection with construction activity undertaken by the City on City property in that restricted zone, provided that the City supplies the applicant with documentation confirming the amount and necessity of such additional costs, including the extent to which they exceeded the cost of dewatering or disposing of materials not impacted by contaminated groundwater.

Date: \_\_\_\_\_

BY: \_\_\_\_\_

Ally H. Cook, City Clerk

Introduction and First Reading:	August 6, 2019
Notice of Public Hearing:	August 10, 2019
Second Reading and Adoption:	September 3, 2019
Effective:	September 7, 2019