

OSHTEMO CHARTER TOWNSHIP
KALAMAZOO COUNTY, MICHIGAN

NOTICE OF ORDINANCE SUBMITTAL

TO: THE RESIDENTS AND PROPERTY OWNERS OF OSHTEMO CHARTER TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that the proposed Ordinances have been submitted to the Township Board of the Oshtemo Charter Township, which, if adopted, would provide, in summary, as follows:

WELLHEAD PROTECTION ORDINANCE NO. 666

SECTION I INTENT AND PURPOSE;

A. Intent / Purpose

The intent of the Charter Township of Oshtemo Wellhead Protection Ordinance is to safeguard the health, safety, and welfare of persons served by the Public Water Supply System by protecting the groundwater.

B. Definitions

The following definitions are more fully set forth in the ordinance:

Best Management Practices (BMP)

Capture Zone

City

Ground Water

Michigan Department of Environment, Great Lakes, and Energy (EGLE)

Performance Standards

RCRA

Regulated Substances

1. Substances for which there is a safety data sheet (SDS);
2. Hazardous Waste;
3. Hazardous Substance;
4. Radiological materials; and
5. Biohazards.

Regulated Substances shall not, however, include:

1. Substances in a parked or stopped vehicle for less than 72 hours;
2. Substances, such as gasoline or oil, in operable motor vehicles or boats;
3. Pressurized gases such as chlorine, propane, hydrogen;
4. Refrigerants contained within equipment;
5. Substances within electrical utility transformers/switches; or
6. Substances used in construction for which all necessary permits have been obtained.

Release means the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more regulated substances upon or into any land or water within a capture zone.

Spill Contingency Plan means a written site-specific plan conforming to the specifications contained in the “Performance Standards,” including the documentation of general site operations.

Township means The Charter Township of Oshtemo.

Wellhead is any individual well used for supplying water.

Wellhead Protection Board of Appeals shall be the Charter Township of Oshtemo Planning Commission.

C. Responsibility for Administration

The Township Board shall designate a person who shall administer, implement and enforce the provisions of this ordinance.

D. Prohibitions within Ten (10) Year Time-of-Travel (TOT) Capture Zone.

Within a ten-year time-of-travel capture zone, no person shall, nor cause or allow another over whom he or she has control to:

1. Release or allow the release of a Regulated Substance, in such a manner that the substance gains access to the ground, to a storm sewer or surface water.
2. Possess a Regulated Substance, including fuels (e.g., gasoline, diesel, kerosene, etc.) exceeding fifty-five (55) gallons aggregate for liquid materials, or four-hundred forty (440) pounds aggregate for dry weights, unless prepackaged and intended for retail sale or for commercial or household use (such as salt used in water softeners, fertilizers, pesticides, herbicides, etc.), or unless engineering controls are designed and implemented consistent with the “Performance Standards,”
3. Operate a scrap and recycling yard;
4. Operate a sanitary / solid waste landfill;
5. Use oil, waste oil or similar liquid petroleum-type products for dust suppression;
6. Install a private water well;
7. Install or use a private water well not installed for the purpose of drinking water or irrigation;
8. Use any private well if said use is likely to cause an adverse impact to the public water supply;
9. Excavate, extract, or mine sand, gravel, bedrock or any other type of earth if a permit or site plan review is required;
10. Allow the presence of an abandoned well; or
11. Drill for natural gas or petroleum.

E. Prohibitions Within One (1) Year TOT Capture Zone.

Within a one-year time-of-travel capture zone, no person shall, nor cause or allow another, over whom he or she has control, to:

1. Engage in any activity prohibited in the 10-Year TOT capture zone;
2. Possess Regulated Substances, including fuels (e.g., gasoline, diesel, kerosene, etc.), exceeding fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights; or
3. Construct or replace any privy, privy vault, septic tank system.

F. Well Isolation Distance Restrictions

Within either capture zone, no person shall cause or allow uses or activities that would violate the terms and conditions set forth in the document “Minimum Well Isolation Distances (From Contamination Sources and Buildings), Part 127, Act 368, P.A. 1978 and Act 399, PA 1976” as prepared by the EGLE, Drinking Water and Environmental Health Division (DWEHD).

G. Determination of Capture Zone Boundaries

In determining whether a property is within a capture zone, the following shall apply:

1. Where a capture zone line that delineates the boundary of one or more zones passes through a property, the entire parcel shall be subject to the restrictions that apply to the more restrictive zone.
2. The Township Wellhead Protection Administrator or his or her designee shall have the authority to interpret the capture zone.

H. Continuation of Existing Facilities and Land Uses

All facilities shall meet the requirements of the “Performance Standards” and/or shall prepare a Spill Contingency Plan within two years from the adoption date of this ordinance.

I. Requirements Regarding Release of Regulated Substance

1. Upon discovery of a release, the owner and person in control shall take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and shall notify the Township and the City of Kalamazoo Public Services Director.
2. All releases shall be documented in writing and notice thereof shall be mailed to the Township within ten (10) business days of said incident. Initial release notification shall include, at a minimum, the following:
 - a. Location of the release;
 - b. Reporting party’s name, address, email address, and phone(s);
 - c. Emergency contact and phone;
 - d. Description and photographs of the nature of the incident;
 - e. Map showing exact release location, and relevant site features;
 - f. All measures taken to clean up the release; and
 - g. All measures proposed to reduce and prevent future releases.
3. The Township Wellhead Protection Administrator shall investigative work that needs to be completed to assess the potential impact of the release.

J. Inactive Operations

This section applies to any business or other operation (“operation”) that is inactive, is within a capture zone, and at which there are regulated substances. Within thirty (30) days, those who own or control such an inactive operation shall do the following:

1. Within 7 days, take steps to secure the site from vandals;
2. Within 30 days of the operation becoming inactive, provide to the Township a document that identifies the site, the date of inactivity, the regulated substances, quantities and storage conditions that exist on site; and
3. Within 6 months of the operation becoming inactive, remove all regulated substances from the site.

K. Enforcement

1. The Township may order compliance by issuing a written Notice of Violation to the responsible person/facility.
2. If the Township requires abatement of a violation and/or restoration of affected property, the notice shall set forth a deadline by which such action must be completed.
3. Nothing within this section shall limit the Township's authority to seek injunctive relief and/or a search warrant allowing entry onto the premises and abatement of the violation to protect the public health, safety and welfare.

L. Variance / Appeal Rights

1. If an owner of property within a capture zone believes the requirements of this ordinance impose an unreasonable burden on the use of the owner’s property, the owner may seek a variance from the Township Wellhead Protection Administrator.
2. Any person receiving a Notice of Violation or whose variance request has been denied in whole or in part may appeal the determination set forth within the Notice or the variance decision to the Township Wellhead Protection Board of Appeals by submitting a written notice of appeal to the Township.
3. If the person who has made an appeal does not agree with the Township Wellhead Protection Board of Appeals’ decision, said person may appeal the matter by filing an appeal in the Kalamazoo Circuit Court.

M. Abatement / Remedial Activities by the Township

1. Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator’s expense.
2. The Township may seek authority to enter the premises to take or may contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this Ordinance has occurred.
3. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable local, state, or federal law.

N. Violation & Penalty

Any violation of this Ordinance or any order made in accordance with this Ordinance constitutes a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment of not more than 90 days.

SECTION II REPEALER:

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

SECTION III SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION IV EFFECTIVE DATE:

This Ordinance is effective on the 30th day following publication of a summary thereof, after adoption by the Township Board.

PLEASE TAKE FURTHER NOTICE that the full text of the proposed Ordinances has been posted at Oshtemo Township Hall located at 7275 West Main Street, Kalamazoo, Michigan 49009, and on the Township's web page, www.oshtemo.org.

PLEASE TAKE FURTHER NOTICE that said Ordinances will be considered for adoption by the Township Board at its regular meeting to be held at Township Hall on January 23, 2024, commencing at 7:15 p.m.

Oshtemo Charter Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities. Individuals with disabilities requiring auxiliary aids should contact the Township by phone, or in writing, at least seven (7) days prior to the scheduled meeting date.

All interested parties are invited to be present at the aforesaid meeting to participate in discussion of these Ordinances.

DUSTY FARMER, Clerk
Oshtemo Charter Township
7275 West Main Street
Kalamazoo, MI 49009
Telephone: (269) 375-4260