

**CHAPTER 1045**  
**Groundwater Protection**

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**CROSS REFERENCES**

Water quality - see Mich. Const. Art. 4, Secs. 22, 52; M.C.L.A. Secs. 67.38, 323.1 et seq.  
 Water supply generally - see Mich. Const. Art. 7, Sec. 24; M.C.L.A. Secs. 46.171 et seq.,  
 123.111 et seq., 325.201 et seq., 486.51 et seq., 486.101 et seq.  
 Water supply cross-connection control - see S.U. & P.S. Ch. 1044  
 Water in subdivisions - see P. & Z. 1246.41, 1248.11

**1045.01 DEFINITIONS.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (a) "Aquifer." The glacial formation, group of glacial formations or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
- (b) "Best management practices." Measures, either managerial or structural to prevent or reduce pollution inputs to soil, surface or groundwater.
- (c) "Development." The carrying out of any construction, reconstruction, alteration of surface of structure or change of land use or intensity of use.
- (d) "Environmental contamination." The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is, or may become injurious to the environment, or to the public health, safety, or welfare.
- (e) "Facility." Any building, structure, or installation from which there may be a discharge of pollutants.
- (f) "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 is 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 M.C.L.A. Sec. 299.501 to 299.551; "petroleum" as defined in the Leaking Underground Storage Act, Act No. 478 of the Public Acts of 1988, being M.C.L.A. Sec. 299.831 to 299.850.

- (g) "Potable water." Any water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- (h) "Primary containment facility." A tank, pit, container, pipe or vessel of first containment of a hazardous substance.
- (i) "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 waters, of any pollutant, which may emanate from said storage container or containers.
- (j) "Well field." A tract of land that contains one or more wells for supplying water.  
(Ord. 2002-05. Passed 11-12-02.)

#### **1045.02 SCOPE.**

These provisions 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 provisions of this code.

(Ord. 2002-05. Passed 11-12-02.)

#### **1045.03 GENERAL PROVISIONS.**

(a) Groundwater protections standards.

- (1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
- (2) Stormwater 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.
- (3) 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 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 City's Industrial Pretreatment Ordinance. A check valve shall be installed in any floor drains connected to the public sewer system to avoid back flow into the facility.
- (4) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- (5) State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

- (6) Bulk storage of pesticides shall be in accordance with Regulation No. 640, Commercial Pesticide Bulk Storage, of Act 171 of the Public Acts of 1976, being Section 286.569.
- (b) Aboveground storage and use areas for hazardous substances and polluting material.
- (1) Primary containment of hazardous substances shall be product tight.
  - (2) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of ten gallons or less packaged for retail use shall be exempt from this item.
  - (3) Outdoor storage of hazardous substances shall be prohibited except in product tight containers that are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.
  - (4) 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 system, groundwater, nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable requirements of Act 245.
  - (5) 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 unpermitted discharges to floor drains, rivers, lakes, wetland, groundwater or soils.
- (c) Underground storage tanks.
- (1) 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 Michigan Department of Environmental Quality.
  - (2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality. 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 City officials for five years.
- (d) Well abandonment. Out of service water wells shall be sealed and abandoned in accordance with applicable requirements of the Well Construction Unit now under the Michigan Department of Environmental Quality; Drinking Water and Radiological Protection Division.
- (e) Site with contaminated soils and/or groundwater.
- (1) 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.
  - (2) Development shall not be allowed on contaminated areas of a site unless information from the Michigan Department of Environmental Quality is available indicating that cleanup will proceed in a timely fashion.

(f) Construction standards.

- (1) 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 wetlands may be improper.
- (2) Hazardous substances stored on the construction site during the construction process, 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. Any storage container of over 25 gallons, or 220 pounds containing hazardous substances shall have secondary containment.
- (3) 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.
- (4) 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 re-used in a proper manner as prescribed by applicable State and Federal regulations.

(g) Maintenance. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where chemicals are handled or stored.

(Ord. 2002-05. Passed 11-12-02.)

**1045.04 REVIEW REQUIREMENTS.**

(a) Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous materials.

(b) Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated stormwater or wash water, and all similar uses.

(c) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

(d) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of the cleanup, if applicable.

(e) Submit "Hazardous Materials Reporting Form for Site Plan Review."

(Ord. 2002-05. Passed 11-12-02.)

**1045.05 CONDITIONS FOR APPROVAL OR DENIAL.**

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

- (a) 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's Office, and returning one to the applicant.
- (b) 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 re-file a corrected site plan under the same procedures followed for the initial submission.
- (c) Conditional approval. Conditions on approval of the site plan may be imposed meeting the requirements specified in the City Zoning Ordinance. Conditions must be:
  - (1) 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;
  - (2) Related to the valid exercise of the police power;
  - (3) 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.
- (d) Table. If the site plan is found to be in violation of requirements, incomplete with respect to necessary information or presenting a unique situation, the Planning Commission may table the site plan until a Public Hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

(Ord. 2002-05. Passed 11-12-02.)

**1045.06 EXEMPTIONS AND WAIVERS.**

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

(Ord. 2002-05. Passed 11-12-02.)

**1045.07 APPEALS.**

The City Council may grant a special permit if it finds by written decision that the proposed use:

- (a) Meets the intent of these sections as well as its specific criteria;
- (b) Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district;
- (c) 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.

(Ord. 2002-05. Passed 11-12-02.)

**1045.08 SEVERABILITY.**

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

(Ord. 2002-05. Passed 11-12-02.)

**1045.99 PENALTIES AND COSTS.**

(a) 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 chapter, or who falsifies, tampers with, or knowingly renders inaccurate any method required under this chapter, shall be fined upon conviction not more than five hundred dollars (\$500.00).

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

(c) 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 City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued.

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

(Ord. 2002-05. Passed 11-12-02.)