

**GREEN OAK CHARTER TOWNSHIP
ORDINANCE NO. 06-2019**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR GREEN OAK CHARTER TOWNSHIP, TO ADD ARTICLE III, CHAPTER 38, ARTICLE III, SECTIONS 38-139 THROUGH 38-156, WELLHEAD PROTECTION OVERLAY DISTRICT, TO PROVIDE SUPPLEMENTAL DEVELOPMENT REGULATIONS IN THE WELLHEAD PROTECTION ZONE TO PROTECT AND PRESERVE THE GROUNDWATER RESOURCES OF THE TOWNSHIP; AND TO PROVIDE PENALITIES FOR VIOLATIONS THEREOF.

GREEN OAK CHARTER TOWNSHIP ORDAINS:

Section 1. Addition of Article III, Sec. 38-139 through 38-156.

Chapter 38, Article III, of the Code of Ordinances shall be amended to add the following new sections.

CHAPTER 38, ARTICLE III

Sec. 38-139 Wellhead Protection Overlay District.

(A) *Intent and Purpose.* The purpose of the Wellhead Protection Overlay District is to provide supplemental development regulations in the designated wellhead protection zone so as to protect and preserve the surface and groundwater resources of the Green Oak Charter Township and the region from any use of land or buildings that may reduce the quality and/or quantity of water resources.

Sec. 38-140 Definitions.

As used in this Ordinance, the following words and terms shall have the meaning specified, unless the context clearly indicates otherwise.

Aquifer. A geologic formation composed of rock or sand and gravel that contain significant amounts of potentially recoverable potable water.

Discharge. Discharge includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying or dumping of any pollutants prohibited by law or regulation, which affects surface water and/or groundwater.

Fonda Island Briggs Lake Joint Water Authority (FIB). The privately-owned water authority and municipal corporation located in Green Oak Charter Township and the Charter Township of Brighton.

Impervious Surface. Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Livingston Community Water Authority (LCWA). A community water utility partnership of the Livingston County, Michigan communities of Green Oak Charter Township, the Charter Township of Brighton and Hamburg Township.

Overlay District. That area of the Township in which special requirements and restrictions are applied to land uses and activities to eliminate or minimize contamination of the aquifers supplying the Township's municipal water wells.

Regulated Substances shall include: (a) Substances for which there is a material safety data sheet (MSDS), as established by the United States Occupational Safety and Health Administration, and the MSDS cites possible health hazards for said substance; (b) Hazardous Waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended; (c) Hazardous Substance, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. EPA regulations; (d) Radiological materials; and (e) Biohazards.

Wellhead Protection Area. The surface and subsurface area surrounding a public water supply well or well field through which contaminants, if discharged, are reasonably likely to move toward and reach the well or the well field. This area is also known as the zone of contribution (ZOC) which contributes groundwater to the well or well field.

Sec. 38-141 Scope of Authority.

The Wellhead Protection Overlay District is a mapped zoning district that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an Overlay District is established, the property is placed simultaneously in the two districts, and the property may be developed only under the applicable conditions and requirements of both districts. In the event there is a conflict between the requirements of the two districts, the requirements of the Wellhead Protection Overlay District shall prevail.

Sec. 38-142 Creation of Overlay District Boundaries.

The Wellhead Protection Overlay District boundaries shall be established on the Township Wellhead Protected and Restricted Areas map. Said map shall be considered part of this ordinance. The Overlay District boundaries may be amended by the Township Board of Trustees upon receiving engineering studies from LCWA, FIB and/or other water authorities in Green Oak Charter Township with approved Wellhead Protection Plans from the Michigan Department of Environmental Quality (MDEQ) that the wellhead protection area should be expanded or contracted. .

Sec. 38-143 District Delineation

A. The Wellhead Protection Overlay District is hereby established to include all lands within Green Oak Charter Township, lying within the Wellhead Protection Areas, including recharge areas of groundwater aquifers and watershed areas that lie within the wellhead protection area which now or may in the future provide public water supply. If the wellhead protection area includes a

portion of the parcel, the entire parcel shall be considered to be within the wellhead protection area.

B. Where the boundaries delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show whether the property should be located in the District. At the request of the owner(s), the Township may engage the services of a qualified professional to determine more accurately the location and extent of an aquifer within the wellhead protection area. The Township shall charge the owner(s) for all or a part of the investigation. The Owner shall place the funds necessary into an escrow account at the Township to cover the necessary fees of the qualified professional.

Sec. 38-144 Site Plan Review Requirements.

A. New or Expanded Uses and Structures. All proposed new or expanded structures or uses within in the Wellhead Protection Overlay District, except single-family uses, shall be subject to site plan review, pursuant to Chapter 38, Article II, Division 2. of the Green Oak Charter Township Zoning Ordinance.

B. Existing Uses and Structures. All land uses and activities existing prior to approval of the Wellhead Protection Overlay District, except single-family uses, must provide the data required for site plan review in sec. 38-145 of this ordinance within thirty (30) days after adoption of the Wellhead Protection Overlay Ordinance.

Sec. 38-145 Data Requirements.

The following data are required for site plan review in the Wellhead Protection Overlay District, in addition to the information required by Chapter 38, Article II, Division 2 of the Zoning Ordinance.

A. List of Regulated Substances. A complete list of chemicals, pesticides, fuels and other Regulated Substances to be used or stored on the premises. Businesses that use or store such Regulated Substances shall file a management plan with the Fire Chief. The management plan shall include the following, at minimum:

1. Provisions to protect against the discharge of Regulated Substances or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
2. Provisions for indoor, secured storage of Regulated Substances and wastes with impervious floor surfaces.
3. Evidence of compliance with the rules and regulations of the Michigan Department of Environmental Quality.
4. Drainage recharge features and provisions to prevent loss of recharge.
5. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

- B. Infrastructure and structures. Location of existing and proposed infrastructure and structures, above and below ground, including:
 - 1. General location of the site within the Wellhead Protection Overlay District.
 - 2. Areas to be used for the storage, loading/unloading, recycling, or disposal of Regulated Substances, including interior and exterior areas.
 - 3. Underground storage tank locations.
 - 4. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- C. Water Resources. Location of existing wetlands and watercourses, including ponds and streams on or within a quarter mile of the site.
- D. Soils. Soil characteristics of the site, at least to the detail provided by the Natural Resources Conservation Service.
- E. Topography. Existing topography of the site, with a maximum contour interval of two (2) feet.
- F. Existing Contamination. Delineation of areas on the site that are known or suspected to be contaminated, together with a report on the status of site clean-up.
- G. MDEQ Checklist. Completion of a Michigan Department of Environmental Quality (MDEQ) checklist, indicating the types of environmental permits and approvals that may be needed for the project.

Sec. 38-146 Special Land Use Approval.

The following uses may be permitted subject to special approval by the Planning Commission in accordance with the provisions set forth in Chapter 38, Article II, Division 1, Sec. 38-44 and any special conditions that are necessary to fulfill the purposes of this ordinance:

- A. Commercial, industrial, governmental or education uses which are allowed in the underlying district, and which are not prohibited in the underlying zoning district.
- B. Any enlargement, intensification, alteration, or change of use of an existing commercial, industrial, governmental or education use.
- C. The rendering impervious of more than fifteen percent (15%) or 2,500 sq. ft. of any parcel, whichever is less, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of the groundwater.

- D. The mining or excavation for removal of earth, loam, sand, gravel and other soils or mineral resources, provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water fluctuation data compiled by the United States Geological Survey). One (1) or more monitoring wells shall be installed by the property owner to verify groundwater elevations. This sub-section shall not apply to excavations incidental to permitted uses, including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
 - 1. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.
 - 2. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.
- F. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials provide that such materials are stored in accordance with the manufacturer's label instructions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture and that they are used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices" and all other necessary precautions are taken to minimize adverse impact on surface and groundwater.
- G. The storage of commercial fertilizers and soil conditioners provided such storage shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- H. All liquid Regulated Substances provided such materials must be stored either in a freestanding container within a building, or in a freestanding container above ground level with protection to contain a spill the size of the container's total storage capacity.

Sec. 38-147 Special Land Use Conditions.

In addition to the requirements of Chapter 38, Article II, Division 1, Sec. 38-44, Special Land Use Approval shall comply with the following:

- A. The Planning Commission may grant Special Land Use approval only upon finding that the proposed use meets and will continue to meet the following standards:
 - 1. In no way, during construction or thereafter, shall a project adversely affect the quality or quantity of water that is available in the Wellhead Protection Overlay District.
 - 2. The project shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and water-related natural characteristics of the site to be developed.

- B. The Planning Commission shall not approve a Special Land Use under this section unless they determine that the petitioner’s application materials are sufficiently detailed, definite and credible to support positive findings in relation to the standards of this section.

Sec. 38-148 Prohibited Uses.

The following uses are prohibited in the Wellhead Protection Overlay District:

- A. Business and industrial uses that generate, use, treat, process, store, or dispose of Regulated Substances, including but not limited to metal plating, chemical manufacturing, wood preserving, and dry-cleaning factory, except for the following:
 - 1. Generators of a very small quantity of Regulated Substances (less than 20 kilograms or six (6) gallons per month), subject to Special Land Use review.
 - 2. Commercially-operated household waste collection stations, excluding any municipal-operated stations.
 - 3. Waste oil retention facilities.
 - 4. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities have been approved by the Michigan Department of Environmental Quality.
 - 5. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for removal of ice and snow on roads, provided such chemicals are covered and located on a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- B. Business and industrial uses that dispose of process wastewater on-site.
- C. Solid waste landfills, dumps, landfilling, spreading or storage of sludge or septage, except for disposal of brush or stumps.
- D. Storage of liquid petroleum products of any kind, except for the following:
 - 1. Storage that is incidental to:
 - a. Normal household use and outdoor maintenance or the heating of a structure.
 - b. Use of emergency generators.
 - c. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities has been approved by the Michigan Department of Environmental Quality.

2. Replacement of storage tanks and systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Ordinance, provided that:
 - a. All such replacement storage tanks or systems shall be located underground as required by the Michigan Department of Environmental Quality.
 - b. All such storage systems shall be protected by a secondary containment system as specified by the Michigan Department of Environmental Quality.
 - c. The Fire Chief may deny an application for tank replacement or approve it subject to conditions if he/she determines that it would constitute a danger to public or private water supplies.
- E. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- F. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic systems cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichloroethane, or other household Regulated Substances.
- G. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Wellhead Protection Overlay District that contains sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.
- H. Sewage disposal systems that are designed to receive more than 110 gallons of sewage per quarter acre per day or 440 gallons of sewage per acre per day, whichever is greater, provided that:
 1. The replacement or repair of an existing system shall be exempted if it does not result in an increase in design capacity above the original design.
 2. In calculating the maximum sewage disposal system density, it shall be assumed that each single-family-residential home will generate 280 gallons of sewage per day.
 3. The maximum sewage disposal system density may be computed using the following method:
 - a. On an individual per lot basis (i.e., a single-family home typically generates 280 gallons of sewage per day, creating the need for a minimum lot area of $\frac{3}{4}$ acre.

In addition to meeting the above standards, all lots shall conform to any applicable minimum lot size requirements specified in Article 26.00 of the Zoning Ordinance.
- I. Wastewater treatment works, except the following:

1. The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system.
2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system.
3. Treatment works designed for the treatment of contaminated ground or surface waters.

Sec. 38-149 Miscellaneous Requirements.

The following requirements shall apply to all uses in the Wellhead Protection Overlay District:

- A. Drainage. For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.
- B. Discharge of Regulated Substances. The property owner shall prevent the discharge of regulated substances.
 1. Upon discovery of a discharge within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge. Remediation shall be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approved obtained from, the Township Supervisor or his/her designee.
 2. All discharges shall be documented in writing and mailed to the Township Supervisor or his/her designee within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:
 - i. Location of the discharge (name, address, and phone);
 - ii. Reporting party's name, address and phone (if different from above);
 - iii. Emergency contact and phone;
 - iv. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) discharged;
 - v. Map showing exact discharge location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;
 - vi. All measures taken to clean up the discharge; and

- vii. All measures proposed to be taken to reduce and prevent any future discharge.
3. The Township Supervisor or his/her designee shall determine if and where any additional investigative work needs to be completed to assess the potential impact of the discharge. The owner or operator shall retain a copy of the written notice for at least three years.

Sec. 38-150 Enforcement.

- A. Whenever the Township Supervisor or his/her designee determines that a person has violated a provision of this Ordinance, the Township Supervisor or his/her designee may order compliance by issuing a written Notice of Violation to the responsible person/facility.
- B. If the Township Supervisor or his/her designee 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. Said notice may further advise that, should the violator fail to remediate or restore within the established deadline, the work will be performed by the Township, with the resulting expense thereof charged to the violator and the expenses may be assessed onto the property if the property owner is also the violator.

Sec. 38-151 Variance/Appeal Rights.

- A. If an owner of property within a Wellhead Protection Area believes the requirements of this ordinance impose an unreasonable burden on the use of the owner's property, the owner may seek a variance or appeal of the requirements of this ordinance to the Township Board of Trustees. In any appeal to the Township Board, the Township Engineer, and the Township Planner shall provide written reports for the purposes of assisting the Township Board in identifying the relevant information related to said variance request or appeal. Such a request must be in writing with enough detail to allow the Township Engineer and Planner to assist the Township Board for purposes of a variance request or appeal, to understand the situation and the proposed variance. If the Township determines that additional information is needed, the applicant shall provide such additional information within 30 days of the request for additional information. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of receipt of the written reports from the Engineer and Planner, the Township Board will conduct a hearing on the application. The Township Board may grant, deny, or partially grant the request. Reasonable conditions may be imposed by the Township Board as part of such a decision. The Township Board shall be guided by the primary goal of protecting the Township's Wellhead Protection Area without creating undue hardship upon the property owners affected.
- B. Any person receiving a notice of violation may appeal the determination of violation by submitting a written notice of appeal to the Township Board. The notice of appeal must be received by the Township Board within 30 days from the date of the notice of violation. Within 30 days of the receipt of such an appeal, the Township staff, with assistance from the Township Engineer and Township Planner as needed, shall issue a written response to the appeal to the applicant and to the Township Board, unless the Township staff has

requested additional information, in which case the Township's response shall be issued within 30 days of receipt of the additional information. The Township Board may affirm, reverse or modify the notice of violation being appealed, or place reasonable conditions on the grant or partial grant of relief from the notice of violation.

- C. If the person who has made a variance request or an appeal of a notice of violation does not agree with the decision of the Township Board, said person may appeal the matter to the Livingston County Circuit Court in accordance with the law.

Sec. 38-152 Abatement/Remedial Activities by the Township.

- A. The Township is authorized but not obligated to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this Ordinance has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the Township for all expenses thus incurred by the Township, plus an administrative fee of twenty-five percent (25%).
- B. The responsible party shall reimburse the Township for the abatement activity expenses. Within 90 days of the completion of such activities, the Township shall mail to the responsible party a notice of claim outlining the total expenses incurred, including administrative costs in the amount of twenty-five percent (25%). The responsible party shall pay said sum in full within 30 days of receipt of the claim. If the responsible party desires to object to all or some of the amount sought by the Township, said person may file, within the same 30-day period, a written objection to the Township Board containing specific reasons for the objections. The Township Board shall, within 30 days of the filing of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Township Board determines that some or the entire amount originally billed is appropriate, the responsible party shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the Township may cause the charges to become a special assessment against the property and shall constitute a lien on the property. In the alternative, the Township may attempt collection of the sum due by filing a civil lawsuit.

Sec. 38-153 Injunctive Relief.

- A. If a person has violated or continues to violate the provisions of this Ordinance, the Township may petition the appropriate court for injunctive relief restraining the person from activities abatement or remediation or pursue whatever other remedies are available by law.

Sec. 38-154 Violations Deemed a Public Nuisance.

- A. In addition to the enforcement processes and penalties provided, 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, and/or a civil infraction to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Township.

Sec. 38-155 Criminal Prosecution.

- A. Any violation of this Ordinance shall be considered a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation. A citation charging such a misdemeanor may be issued by the Township Supervisor, his or her designee, the Township's Ordinance Enforcement Officer or the Police Department.

Sec. 38-156 Remedies Not Exclusive.

- A. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Township to seek cumulative remedies.

Secs. 38-157 to 38-175 Reserved.

Section 2. Repealer.

This ordinance repeals any ordinances in conflict thereof.

Section 3. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. The Township Board of Trustees hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. Publication and Effective Date.

The Township Clerk is hereby ordered and directed to cause this ordinance or a summary of this ordinance to be published in the manner required by law within thirty (30) days after it has been duly adopted by the Township Board. The effective date shall be the date of publication.

Section 6. Adoption.

That this ordinance was duly adopted by the Green Oak Charter Township Board at its regular meeting called and held on _____, 2019 and was ordered given publication in the manner required by law.

GREEN OAK CHARTER TOWNSHIP

Michael H. Sedlak, Township Clerk

Adoption Date: _____, 2019

Publication Date: _____, 2019

Effective Date: _____, 2019