

**TOWNSHIP OF SAUGATUCK  
ALLEGAN COUNTY, MICHIGAN**

**ORDINANCE NO. 2021-01**

**AN ORDINANCE TO ADD A NEW ZONING SECTION 40-595 TO  
CHAPTER 40 OF THE CODE OF ORDINANCES, TOWNSHIP OF  
SAUGATUCK, MICHIGAN, AND TO AMEND SECTION 40-586, TO  
ESTABLISH AND PROVIDE REGULATIONS FOR A GROUNDWATER  
PROTECTION OVERLAY DISTRICT**

The Township of Saugatuck Ordains:

Section 1. Addition. A new zoning section 40-495, entitled “Groundwater Protection Overlay District,” is added to Chapter 40, Article IV, of the Code of Ordinances, Township of Saugatuck, Michigan, to read as follows:

**Sec. 40-595. Groundwater Protection Overlay District.**

- (a) *Purpose*. The Township of Saugatuck has determined that certain groundwater underlying areas in the Township is, or may be in the future, the source of water supplied by the Kalamazoo Lake Sewer and Water Authority. Groundwater aquifers are integrally connected with the surface water, lakes and streams that constitute significant public health, recreational and economic resources of the Township and surrounding area. 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. This section is intended to protect existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the sources of water supplied by the Kalamazoo Lake Sewer and Water Authority.
- (b) *Boundaries*. The boundaries of the groundwater protection overlay zone are depicted on the zoning map and are generally based on the wellhead protection area (WHPA) designated by EGLE in accordance with the State of Michigan Wellhead Protection Program.
- (c) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
  - (1) *Abandoned operations*: Any property that is unoccupied for at least thirty (30) days, not actively listed by a licensed real estate broker, and which:
    - (A) Is open to casual entry;
    - (B) Has one or more windows boarded;
    - (C) Has utilities disconnected;
    - (D) Is unsafe for occupancy or the general public, or is a visual blight adversely affecting the general welfare of the area; or
    - (E) Is the subject of indebtedness to the Township for more than one year.
  - (2) *Aquifer*: A geological formation, group of formations, or part of a formation capable of storing and yielding a significant amount of groundwater to wells and springs.
  - (3) *Chemical abstract service (CAS) number*: This is a unique number for every chemical established by a Columbus, Ohio organization which indexes information published in “Chemical Abstracts” by the American Chemical Society.

- (4) *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:
- (A) Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, Public Law 96.510, 94 State. 2767;
  - (B) Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
  - (C) 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) Used oil;
  - (F) Radiological materials.
- (5) *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 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.
- (6) *Properly plugged abandoned well*: A well that has been closed in accordance with regulations and procedures of the Department of Environment Great Lakes and Energy (EGLE) and the local Health Department. A properly plugged abandoned well requires a permit to be brought back into service.
- (7) *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.
- (8) *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 property (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.

- (9) *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 substance exposed to storm water and controls to prevent releases.
  - (10) *Underground storage tank*: 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.
  - (11) *Unplugged abandoned well*: A well which has not been used for one year or more.
  - (12) *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, or testing water quality, or measuring water characteristics, or measuring liquid recharge, or measuring liquid levels, or oil and gas exploration or production, or waste disposal, or dewatering purposes; or geothermal heat exchange purposes, or a cistern of a depth of 4 feet or more and with a top width of 12 inches or more.
  - (13) *Wellhead protection area (WHPA)*: The area which has been approved by EGLE 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.
- (d) *Prohibited uses and activities*. For any parcel of land within the groundwater protection overlay, notwithstanding the regulations of the underlying zoning district, the following activities are prohibited:
- (1) Operations of a junkyard or salvage yard.
  - (2) Operations of a State of Michigan Type II or Type III solid waste landfill.
  - (3) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression.
  - (4) Unplugged abandoned wells.
  - (5) Improper use, storage and disposal of hazardous substances.
  - (6) A new or increased large quantity withdrawal of groundwater requiring registration under Part 327 of the Michigan Natural Resources Protection Act, 1944 PA 451, as amended, if the well from which such withdrawal is to be made is: (1) located less than 1,000 feet from any municipal water source; or (2) a Type I or Type II water supply, as those terms are defined by the Michigan Department of Environment, Great Lakes, and Energy.
  - (7) Drilling for natural gas or petroleum, whether for exploration or production.
- To the extent any such land use was lawfully in existence at the time this section was enacted, it shall be considered a lawfully nonconforming use subject to the provisions of Article XV.
- (e) *Additional requirements for site plan applications*. Whenever site plan review is required under the provisions of this chapter, applications for projects within the groundwater protection overlay district shall include the following in addition to any other required materials and information:
- (1) Existing and proposed land use deed restrictions, if any.
  - (2) Location and outline of all existing septic tanks and drain fields.
  - (3) Location of any floor drains in proposed structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.

- (4) 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.
  - (5) Inventory of hazardous substances to be stored, used or generated on-site, including CAS numbers.
  - (6) Description and drawings showing size and location for any existing or proposed aboveground and underground storage tanks, piping lines and dispensers.
  - (7) 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.
  - (8) 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.
  - (9) A completed EGLE Environmental Permits Checklist.
- (f) *Additional site plan review standards.* In addition to the standards provided in 40-816, the Planning Commission shall review all site plans for projects within the groundwater protection overlay district for conformance with the following standards, subject to the exceptions provided in subsection (g):
- (1) 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.
  - (2) 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 (SWPPP).
  - (3) 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.
  - (4) 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.
  - (5) 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 to the waters of the State (including groundwater).
  - (6) Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the County Health Department.
  - (7) The applicant shall have satisfactorily completed the EGLE Environmental Permits Checklist.
- (g) *Exclusions.* The standards in subsection (f) pertaining to hazardous substances shall not apply when:
- (1) The hazardous substances are packaged for personal or household use or present in the same form and concentration as a product packaged for use by the general public.

- (2) The products containing hazardous substances are held in containers with a volume of less than 40 gallons and packaged for retail use.
  - (3) The total excluded substances containing hazardous substances do not exceed the lesser of two hundred (200) gallons or one thousand (1,000) pounds at any time.
  - (4) The substances are parked or stopped vehicle in transit, provided that a commercial vehicle is stopped or parked for less than 72 hours;
  - (5) The substance, such as gasoline or oil, is used in operable motor vehicles or boats solely for the operation of the vehicle, but not the tanker portion of a tank truck.
  - (6) The substance is pressurized gases in storage tanks.
- (h) *Abandoned Operations.* This subsection applies to residences, businesses or other operations. Those who own or control abandoned operations shall do the following:
- (1) Within seven (7) days of becoming an abandoned operation, take such steps as necessary to secure the site such that natural elements such as water, wind and ice or vandals and all other persons cannot gain access to the hazardous substances.
  - (2) Within thirty (30) days of becoming inactive, provide to the Township zoning administrator or their designee, 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.
  - (3) Within sixty (60) days of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting.

Section 2. Amendments. Zoning sections 40-586 of Chapter 40, Article IV, of the Code of Ordinances, Township of Saugatuck, Michigan, are amended to read as follows:

**Sec. 40-586. Zoning map.**

The locations and boundaries of the several zoning districts and the Mobile Home Location Overlay District, the floodplain overlay district, the natural rivers overlay district, the critical sand dune overlay district, the Blue Star Highway mixed use residential/commercial overlay district, the interstate transportation overlay district, and the groundwater protection overlay zone, all established in this chapter, are shown on a map, as amended from time to time, entitled the “Zoning Map of Saugatuck Township, Allegan County, Michigan,” which map accompanies the ordinance from which this section derives and is hereby incorporated into this chapter by reference.

Section 3. Effective Date. This ordinance shall become effective seven days after its publication unless otherwise provided by law.

YEAS: Osman, Helmrich, Aldrich, Bigford, Marcy

NAYS: None

ABSTAIN: None

ABSENT: None

**CERTIFICATION**

This is a true and complete copy of Ordinance No.2021-01 adopted at a regular meeting of the Township of Saugatuck Board held on April 14, 2021.

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Cindy Osman, Township Supervisor

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Abby Bigford, Township Clerk

PC Hearing: October 16, 2020  
Adopted: April 14, 2021  
Published: April 22, 2021  
Effective: April 29, 2021