



PLAINFIELDCHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
616-364-8466

**ORDINANCE #820
RESOLUTION #09-47**

WELLHEAD PROTECTION ORDINANCE

**AN ORDINANCE TO AMEND CHAPTER 16 OF THE CODE OF ORDINANCES BY
ADDING ARTICLE VII, TO ADOPT STANDARDS FOR WELLHEAD PROTECTION, TO
REGULATE CERTAIN ACTIVITIES WITHIN THE WELLHEAD PROTECTION AREA,
AND TO PROVIDE ENFORCEMENT MEASURES AND PENALTIES FOR
VIOLATIONS.**

THE CHARTER TOWNSHIP OF PLAINFIELD ORDAINS:

1. Chapter 16, Article VII of the Code of Ordinances, Charter Township of Plainfield, Kent County, Michigan is hereby added to read as follows:

Sec. 16-200. Purposes.

The intent of this article is to safeguard the health, safety, and welfare of persons served by the Township's Water Supply System by protecting Groundwater that serves as drinking water, thus providing a safe potable water supply now and for future generations. The objectives of this article are:

- (1). To minimize the risk of spills, leaks, and other discharges into Groundwater supplies within the identified Wellhead Protection Zone;
- (2). To regulate non-compatible land uses within the Wellhead Protection Zone which have the potential to degrade or otherwise negatively impact Groundwater resources;
- (3). To prevent and minimize public and private losses due to contamination of the public water supply by avoiding expenditure of public money for costly pollution remediation projects and/or replacement of Water Supply System assets;
- (4). To minimize interruptions to businesses by only regulating specific land-use activities within the Wellhead Protection Zone based upon determined potential risk to the Water Supply System.

Sec. 16-201. Definitions.

Whenever, in this article, the following terms are used, they shall have the meaning as described to them in this article, unless it is apparent from the context thereof that some other meaning is intended:

Aboveground Storage Tank (AST): A tank or combination of tanks, including the pipes that are connected to the tank, tanks, or ancillary equipment containment systems, if any, which is, was, or may have been used to contain Regulated Substances and which has less than 10% of its volume, including the volume of the underground pipes that are connected to the tank, or tanks, beneath the surface of the ground.

Dry Wells: A type of drainage well used for the underground disposal of stormwater runoff from paved areas, which include parking lots, streets, highways, residential subdivisions, building rooftops, agricultural areas, and industrial areas.

Facility: All contiguous land and related structures, appurtenances, and improvements on land with the same Facility Operator. A Facility may consist of several operations. Contiguous land shall include land separated by a public right-of-way so long as such land would otherwise be contiguous. The term Facility includes all principal and accessory uses, including residential uses.

Facility Operator: The person or designee in possession and/or control of a Facility and/or Regulated Substance Storage Unit regardless of whether such person is the owner, lessee, or other possessor. The term also includes contractors or site managers at construction sites who are responsible for the general management of Regulated Substances located on site.

Groundwater: The water below the land surface in a zone of saturation, excluding those waters in underground piping for water, wastewater, or stormwater distribution/collection systems.

Michigan Department of Environmental Quality (MDEQ): shall include its predecessors and successors.

Regulated Substance Storage Unit: Any UST, AST, drum, carboy, or other container used for the storage of one or more Regulated Substance(s) including silo, bag, tank wagon, box, glass, cylinder, total bin,

truck body, rail car, tanker, or tool crib when used for permanent or temporary storage of Regulated Substances.

Regulated Substances:

- (1). 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;
- (2). Contaminants, including but not limited to hazardous substances and hazardous waste, under Michigan's Natural Resources and Environmental Protection Act (NREPA), the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA); the federal Resource Conservation and Recovery Act (RCRA); and all applicable rules and regulations;
- (3). Radiological materials;
- (4). Biohazards and medical waste.

Regulated Substances shall not, however, include:

- (1). Substances that are in transit (while in motion) from one Facility to another, and substances in a parked or stopped vehicle in transit, provided the vehicle is stopped or parked for less than 72 hours;
- (2). Substances, such as gasoline or oil, in operable motor vehicles or boats so long as used solely for the operation of the vehicle or boat, but not the tanker portion of a tank truck;
- (3). Pressurized gases such as chlorine, propane, hydrogen, and nitrogen when in a chemical storage tank;
- (4). Refrigerants contained within equipment and used for on-site air cooling or in household appliances;
- (5). Substances contained within electrical lighting or electrical utility transformers/switches;
- (6). Substances used in construction for which all necessary permits have been obtained, and in accordance with this article.
- (7) Prepackaged substances such as salt used in water softeners, fertilizers, pesticides, herbicides and cleaning agents that are packaged for personal or household use, provided however, that said substances are not possessed by a manufacturer or wholesaler as either inventory or manufactured product, and provided that said substances are not used in a manner contrary to the other provisions of this article.

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 the Wellhead Protection Zone. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" does not include:

- (1). Disposal in accordance with all legal requirements, including those in NREPA, RCRA and CERCLA, of hazardous substances and hazardous wastes in a Facility that has received and maintained all necessary legal approvals for that purpose;
- (2). Disposal of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid municipal, state, or federal permit;
- (3). Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- (4). Disposal, in accordance with all legal requirements, of sanitary sewage to subsurface sewage disposal systems as defined and permitted by the State of Michigan or Kent County Health Department;
- (5). A release for which there is no obligation to report under federal, state, or local regulations that occurs on an impervious ground surface (e.g. building floor or concrete driveway) that is effectively cleaned up before reaching permeable ground (e.g. unpaved), a dry well, a storm sewer, or surface water body;
- (6). The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under Generally Accepted Agricultural Management Practices, and consistent with label directions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture.

- (7). The application of fertilizers, herbicides and pesticides if used in the routine care for lawns and landscaped areas consistent with manufacturer label directions and said application occurs outside of the prohibited application area described in Section 16-204(1)(l).

Spill Contingency Plan: A written site-specific plan conforming to the specifications and requirements contained in this article, including the documentation of general site operations, Regulated Substance storage areas, potential for releases of Regulated Substances, an analysis of the potential destination of such releases and procedures to be followed in the event of a release.

Township: The Charter Township of Plainfield, Kent County, Michigan.

Underground Storage Tank (UST): 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 Regulated Substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is 10% or more beneath the surface of the ground.

Wellhead: Any well used for supplying water.

Wellhead Protection Zone (WHPZ or Zone): The surface and subsurface areas as designated on the map attached as Exhibit A and made a part of this article.

Sec. 16-202. Responsibility for Administration

The Director of Public Services, or such other person(s) or successor position as may be designated by the Township Board, shall administer, implement and enforce the provisions of this article.

Sec. 16-203. Prohibited Activities Within the Wellhead Protection Zone.

Within the WHPZ, no person shall, nor cause or allow another over whom he or she has control to:

- (1). Possess, use, process, store or generate 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 at any given time unless a variance is obtained pursuant to Section 16-213 allowing Regulated Substances in excess of the amounts permitted herein.
- (2). Construct or replace any privy, privy vault, septic tank, cesspool, or other receptacle intended or used for the disposal of domestic or non-domestic wastewater.
- (3). Install a private water well for the purpose of drinking water or irrigation if, in the determination of the Township, public water service is reasonably available;
- (4). Install or use a private water well not installed for the purpose of drinking water or irrigation unless it is determined by the Director of Public Services that the well will not cause an adverse impact to the public water supply;
- (5). Use any private well if said use is likely to cause an adverse impact to the public water supply;
- (6). Excavate, extract, or mine sand, gravel, bedrock or any other type of earth at any Facility that is contaminated unless the property owner has established, to the Director of Public Services' satisfaction, that the activity will not cause an adverse impact to the public water supply;
- (7). Allow the presence of an abandoned well, which is defined as any well, the use of which has been discontinued for more than one year, is in such disrepair that its continued use for obtaining Groundwater is impractical, has been left uncompleted, is a threat to Groundwater resources, or is a health or safety hazard. A well shall not be considered abandoned if it has been properly plugged pursuant to The Groundwater Quality Control Act, Part 127, 1978 PA 368;
- (8). Install or use a geothermal well for heating and cooling systems.

Sec. 16-204. Requirements and Restrictions Within the Wellhead Protection Zone.

- (1). The following requirements and restrictions apply to all Facilities within the WHPZ regardless of the amount of Regulated Substances located at the Facility.
 - a. Soil and Fill Material. The use of soil or any other fill material containing Regulated Substances above any state and/or federal cleanup criteria for soils is prohibited.
 - b. General Purpose Floor Drains. General-purpose floor drains must be connected to a public sanitary sewer system or an onsite holding tank (not a septic system) in accordance with state, county, and Township requirements. General-purpose floor drains that discharge to Groundwater or a stormwater collection system are prohibited. Dry wells are prohibited.

- c. Well abandonment. When a well is plugged, formal well abandonment logs must be completed and provided to the Township's Public Services Department, except in cases where wells were abandoned in the past and no well abandonment logs are available.
- d. Commercial Vehicle Washing. Commercial vehicle washing shall be conducted on a wash pad. Wash areas for commercial vehicles must be paved with an impervious surface and bermed or curbed to prevent stormwater run-on and wash water runoff. The wash area shall be sloped for wash water collection, which may be discharged to a wash water recycling system, directly to the public sanitary sewer (with approval and appropriate pretreatment), or to a dead-end sump (from which the material may be pumped or hauled to the public sanitary sewer (with approval)). Because wastewaters from vehicle washing represent significant flows that can hydraulically overload an oil/grit separator, any such treatment device must be sufficiently sized to accept these volumes. The wash pad areas shall be covered, if possible. The cleaning of semi-trailer and tanker truck interiors is prohibited, unless the following standards are met:
 - 1. The interior of the semi-trailer is swept, and all debris is collected and properly disposed. If rinsing the inside of the trailer is necessary, cleaning shall be conducted over an impervious surface. Wash water must not be discharged to the storm sewer or the ground. With approval and appropriate pretreatment, rinse water may be disposed to the public sanitary sewer.
 - 2. Wash water from the interior of tanker trucks or rail tankers shall be pumped directly into containers for appropriate offsite disposal or, with approval and appropriate pretreatment, must be pumped directly to a public sanitary sewer drain. Rail tankers may not be cleaned, unless the wash water can be completely contained and appropriately disposed.
- e. Pressure Washing and Steam Cleaning. Pressure washing and steam cleaning related to industrial activities or uses are only permitted within covered, completely contained areas. Due to the possibility of generating runoff with high concentrations of pollutants, exterior pressure washing or steam cleaning of parts, vehicles, and other materials is not permitted. Pressure washing and steam cleaning may be conducted, if either is conducted on a sealed impervious surface that is completely contained and graded toward a drain that discharges either to the sanitary sewer (with approval and appropriate pretreatment) or a holding tank (not into the storm sewer or directly to site soils or Groundwater). Alternatively, steam cleaning or pressure washing facilities may have zero-discharge recycling systems equipped with oil/water separators or other treatment devices.
- f. Cooling Systems. Cooling systems shall be closed-looped to eliminate cooling water discharges. Discharge of cooling water to site soils/Groundwater is prohibited without Township approval.
- g. Salt Piles. All salt and associated sand mix piles must be stored on an impermeable surface and covered with a waterproof material. Stockpiles shall not be located near surface waters, in flood plains, or areas with steep slopes, and shall be designed to prevent surface water runoff. Snow containing road salt shall not be brought to sites in the WHPZ for disposal. Environmentally friendly snow and ice removal products and procedures are encouraged.
- h. Aboveground Storage Tanks. Aboveground Storage Tanks (ASTs). ASTs shall be certified, installed, operated, maintained, closed, or removed in accordance with MDEQ regulations and the Township Fire Code. A copy of any required local or state AST registration document shall be provided to the Township's Public Services Department.

All ASTs containing flammable or combustible materials must meet the requirements of the MDEQ Rules for the Storage and Handling of Flammable and Combustible Liquids.

No ASTs shall be located in direct contact with site soils. The tank shall have sufficient ground clearance for visual inspection of the bottom of the AST for deterioration, unless the size of the AST prevents raising the tank, as required, or if the AST is a concrete-vaulted tank.

Any AST that, due to its location is susceptible to vehicle damage must be protected against impact with physical barriers. Any impervious dike utilized as secondary containment meets the requirements for a physical barrier.

For ASTs not subject to the MDEQ Rules for the Storage and Handling of Flammable and Combustible Liquids, the following conditions apply:

- 1. Regulated Substances must have secondary containment meeting the standards of Section 16-204(2)(h).

2. Tank piping shall be located within secondary containment whenever possible and must be located below the product level.
 3. Piping shall be designed so that liquid will not continue to flow by gravity or siphoning from the storage tank if the piping or fittings break.
 4. Tanks shall be equipped with a shut-off valve, preferably an automatic shear valve, with the shut-off located inside the tank.
 5. For flood control, all exterior ASTs shall have a monitoring system and secondary standpipe above the 100-year flood-control level for monitoring and recovery.
 6. Fill-pipe inlets shall be above the elevation of the top of the storage tank.
 7. ASTs shall have overfill protection, such as a visual liquid-level-indicator gauge or alarms.
- i. **Underground Storage Tanks (USTs).** New USTs are prohibited, provided however, that a Facility presently using USTs for fuel and lubricants for vehicle operations and fuel for building and/or processing heating shall be permitted to replace existing tanks with those constructed and installed pursuant to the specifications of Part 211 of NREPA and all other applicable laws, rules and regulations, the replacements not to exceed the capacity of existing tanks. Replacement of USTs for other than the above referenced fuels and lubricants is prohibited.
- All existing USTs must conform to all applicable federal, state, and local laws and regulations, including but not limited to, EPA, MDEQ, and Township Fire Code requirements.
- j. **Solid-Waste Dumpsters.** Solid-waste dumpsters must have lids and be stored on a paved surface, unless otherwise approved by the Township.
- k. **Scrap Metal Dumpsters/Drums.** Dumpsters and drums containing scrap metal that may contain residual chemicals or oils shall be stored on an impervious surface in an enclosed area or covered with an impervious liner to prevent accumulation of stormwater, whenever possible. Where stormwater may otherwise accumulate in the scrap metal collection units, drain plugs shall be left in place to prevent discharge onto the ground. If necessary, such collection units shall be located on an impervious surface with a separate collection catch basin containing an oil/grit separator that discharges to the public sanitary sewer (with prior approval and pretreatment) or a holding tank.
- l. No fertilizers, herbicides or pesticides shall be applied on any embankments of either Versluis Lake or the Coit Avenue Gravel Pit or that portion of any adjacent area that slopes towards and drains into either Versluis Lake or the Coit Avenue Gravel Pit.
- (2). The following requirements and restrictions apply only to those Facilities that possess, use, process, store or generate 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 at any given time.
- a. **Inventory List.** A Facility that has Regulated Substances in quantities exceeding 55 gallons aggregate for liquids and/or 440 pounds aggregate for solids on site shall keep an inventory list that identifies all Regulated Substances stored at the Facility in containers exceeding either 10 pounds for liquids or 100 pounds for solids. For each Regulated Substance, the inventory list shall identify the type of storage container, storage location(s), and typical and maximum storage quantities in each storage location. The Facility shall maintain a file of current Material Safety Data Sheets (MSDS) that includes the hazardous components and percentage by weight of each Regulated Substance on the inventory list. This MSDS file shall be readily accessible in the event of an emergency. The MSDS file and the inventory required hereunder shall be made available to the Township upon request.
 - b. **Floor Surfaces.** Floor surfaces in work areas shall be impervious to Regulated Substances that may be used or generated at the Facility and, if necessary, shall be sealed with an impermeable material. The work area floor shall be pitched to an appropriate floor drain or collection area (e.g., holding tank). Alternatively, if floor drains are not used, or if they are located close to entranceways, then entrances shall be designed to prevent stormwater runoff from entering the building and prevent spills from leaving the building. Curbing and internal floor berms shall be used to isolate floor drains from spill-prone areas, where necessary.
 - c. **Location of Manufacturing/Processing Activities.** Whenever possible, manufacturing and processing activities involving the possession or control of Regulated Substances shall be conducted indoors. If indoor manufacturing/processing is not feasible, the potentially pollutant-generating activities shall be segregated from nonpolluting activities and

conducted on an impervious surface. The area shall be covered, if possible and as appropriate. The surface shall be graded to minimize run-on of stormwater and runoff of spills. The area must be adequately designed to prevent spilled Regulated Materials from escaping the area. Drains in these areas can be connected to the public sanitary sewer, with approval by the Public Services Department and appropriate pretreatment, or to a holding tank meeting the specifications of this article. If potentially polluting activities cannot be covered, discharge of low-volume, high-frequency storms to the sanitary sewer may be allowed, with prior approval and pretreatment.

- d. **Loading/Unloading Areas.** Loading/unloading areas shall be paved with concrete or another material sufficiently impervious to the materials loaded and unloaded in that area. Loading/unloading docks shall be isolated from storm drains and dry wells to prevent potential spills from contaminating stormwater or discharging to the ground. If stormwater runoff in the loading/unloading dock is a possibility, the area shall be designed to reduce stormwater run-on, and if not covered or enclosed, grading and/or berms shall direct drainage to a dead-end sump or another appropriate collection device. A positive control valve shall be installed on the drain. Alternatively, at the discretion of the Director of Public Services, a precipitation valve may be installed in the curb, which may be left open to drain precipitation, except during loading/unloading. If tanker trucks are used to load/unload ASTs or USTs containing Regulated Substances, full containment of the loading/unloading area shall be required. The storage of spill response equipment required by this article or any federal, state or local law or regulation shall be in an area accessible to loading/unloading areas where Regulated Substances are transferred.
- e. **Emergency Spill Response Equipment.** Facilities shall have emergency spill response equipment. Spill response equipment shall be located throughout the site so that spills may be contained in storage areas, loading/unloading areas, dispensing areas, and work areas, as appropriate. The specific types of spill response equipment to be stored shall reflect the types of Regulated Substances stored onsite, other engineering controls present, the potential threat to site soils/Groundwater, and the location of the site within the WHPZ.
- f. **Regulated Substance Storage Units.** Regulated Substance Storage Units containing greater than 55 gallons for liquids or 440 pounds for solids are prohibited unless they are completely contained, isolated from floor and storm drains, have sealed surfaces, comply with fire safety regulations, and are not accessible to unauthorized personnel. Whenever possible, such Regulated Substance Storage Units shall be consolidated into one location for better control of material and waste inventory. All such Regulated Substances Storage Units shall be properly labeled as to contents and periodically inspected for evidence of leaks, improper storage, or potential hazards that may result in a release of Regulated Substances being stored in or transferred into or out of the storage unit. All doors, valves, or other openings through which a release could occur must be locked or otherwise secured when not in use.
- g. **Storage Locations.** Regulated Substances shall be stored inside, whenever feasible. If it is not feasible, outside storage areas shall be covered, preferably with a roof. A curb or berm shall be required along the perimeter of outdoor storage areas to prevent the run-on of uncontaminated stormwater from adjacent areas, as well as runoff of stormwater from the storage area. The area inside the curb shall slope to a drain, then to a holding tank or public sanitary sewer (if approved) with a positive control such as a lock, valve, or plug.

Regulated Substances stored outdoors must be in product-tight containers that are protected from weather, leakage, accidental damage, and vandalism. Facilities storing Regulated Substances outdoors must implement security measures that are appropriate for the material stored and the nature of the Facility. Measures to be implemented, as appropriate, include:

- 1. Fencing the Regulated Substance storage unit or the entire site and locking or guarding entrance gates when the storage unit/facility is not in production or is unattended.
 - 2. Ensuring that valves permitting direct outward flow of a container's contents have adequate security measures so they remain in the closed position when in non-operating or standby status.
 - 3. Preventing unauthorized access to starter controls of pumps.
 - 4. Providing facility lighting that will assist in the discovery of releases during hours of darkness and prevention of discharges occurring through acts of vandalism.
- h. **Secondary Containment.** Secondary containment must be provided for Regulated Substance Storage Units containing Regulated Substances other than fuel. Secondary-containment facilities shall be designed and constructed so that potential polluting material cannot escape from the unit by gravity through sewers, drains, or other means directly or indirectly into a sewer or stormwater collection system or to the waters of the state, including Groundwater. Secondary containment shall include protective measures, such as double walls, dikes, vaults, or impervious liners (both natural and synthetic).

Exterior secondary containment provided by dikes shall be constructed of poured concrete or a pre-manufactured containment tub. Secondary containment shall not be constructed of concrete-block due to its greater susceptibility to cracking and weathering. Exterior secondary-containment areas shall be capable of containing 100% of the largest vessel or 10% of the total volume of tanks in containment, whichever is larger, plus freeboard to contain precipitation from a 25-year storm. Alternatively, the vessel may be an Underwriters Laboratories, Inc.-approved, double-walled tank. If containment is provided by a dike, the containment must be higher than the 100-year flood level. When possible and as appropriate, exterior storage of Regulated Substances and their containment structures shall be covered to protect the containers from exposure to precipitation. If this is not possible, the base of the dike shall be sloped to a collection point or sump to allow for controlled removal of accumulated stormwater or spilled Regulated Substances. If the dike is penetrated by a drainage or conveyance pipe, the opening must be sealed on both sides to ensure a liquid-tight penetration. Drainage pipes must have a lockable valve. This valve must be kept closed and locked under normal conditions, until a determination is made by a trained individual that the discharge of the stormwater is acceptable according to federal, state and local regulations. Discharge of accumulated stormwater from a secondary-containment structure containing petroleum products shall be pre-treated, as necessary, to meet all applicable water quality standards prior to discharge to soils, surface water, or a stormwater collection system.

Secondary containment for indoor ASTs may be provided by the building, as long as discharge from the AST cannot escape the building via floor drains, entrances, or any other means, and no specific containment is required by other regulations. Although not permitted for outdoor containment structures, concrete-block containment may be used indoors with the Township's written approval.

- i. Floor Drains. Floor drains shall discharge to holding tanks, if they are located where public sanitary sewers are not available, subsurface disposal systems are failing, or they are higher-risk facilities located in the WHPZ. Holding tanks shall adhere to the requirements for ASTs and USTs, including secondary containment, unless otherwise approved by the Township.
- j. Regulated Substances in Trucks, Rail Cars, Etc. The possession of Regulated Substances in trucks, trailers, tanker trucks, rail cars, tool cribs, or similar vehicles is prohibited unless otherwise allowed by this article and unless secondary containment is provided that is sufficient to contain the entire contents of the largest distinct compartment of the container.
- k. Hazardous waste. Hazardous waste management techniques must comply with all applicable federal, state, and local requirements. When possible, hazardous-waste-generating operations at a Facility shall be physically segregated from other operations. Work areas and all storage areas containing hazardous waste shall be located within a containment area with appropriately sealed floors and no direct access outside the Facility.
- l. Open Liquid-Waste Ponds. Open liquid-waste ponds are prohibited.

Sec. 16-205. Well Isolation Distance Restrictions.

In addition to the prohibitions contained in this article, 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 MDEQ, Water Division, as it may be amended, unless approved in writing by the Director of Public Services.

Sec. 16-206. Nonconforming Facilities.

A Facility not in compliance with one or more of the requirements or provisions of this article on the effective date of this article (including exceeding the permissible amount of Regulated Substances) shall have two (2) years from the effective date of this article to eliminate such noncompliance(s) or otherwise obtain the necessary variance(s) to allow the noncompliance to continue. Notwithstanding the foregoing, if the Director of Public Services determines, based on the location, use and size of a Facility, that the Facility poses a greater than normal risk to the ground water, the Director of Public Services may require compliance (subject to any variances granted) with this article within one year of receiving notice of the shorter time period from the Township.

Sec. 16-207. Requirements Regarding Release of Regulated Substance.

- (1). Upon discovery of a Release within the WHPZ, the Facility Operator, as well as the person responsible for the release, shall take appropriate reasonable actions to mitigate the potential impact of the release on Groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance release 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 approval obtained from, the Director of Public Services.

- (2). All releases shall immediately be verbally reported to the Director of Public Services, and shall also be documented in a Regulated Substance Release Report mailed to the Township within three (3) business days of said incident. Initial release notification shall include, at a minimum, the following:
 - a. Location of the release (address, and name and phone number of property owner);
 - b. Reporting party's name, address, and phone (if different from above);
 - c. Emergency contact and phone;
 - d. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released;
 - e. Map showing exact release location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;
 - f. All measures taken to clean up the release;
 - g. All measures proposed to be taken to reduce and prevent any future release.
- (3). The Director of Public Services or his/her designee shall use the Regulated Substance Release Report to determine if and where any additional investigative work needs to be completed to assess the potential impact of the release. The Facility Operator shall retain a copy of the report for at least three years.

Sec. 16-208. Regulations Applicable to Specific Activities.

In addition to following the general requirements set forth in this article, the following activities, including any activity that would otherwise be prohibited except for being granted a variance, shall also follow the specific requirements contained in this section. The applicable requirements contained in this section shall be identified and incorporated into the Spill Contingency Plan required under section 16-210 and shall be approved by the Director of Public Services.

(1). **FUELING ESTABLISHMENTS (AUTOMOBILE GAS STATIONS AND SERVICE STATIONS)**

- a. The fuel dispensing area shall be paved with concrete or an equivalent smooth impervious surface (not asphalt) with a 2 to 4% slope to prevent ponding of stormwater. The fuel dispensing area must be covered by a roof at least as far as the length that the hose and nozzle assembly may be operated, plus one foot. The cover must not drain onto the fuel dispensing area. The covered fuel dispensing area must be separated from the rest of the site by a grade break that prevents run-on of stormwater to the maximum extent practicable. Drains at the site shall be labeled to indicate whether they flow directly to the public sanitary sewer (if permitted) or storm sewer or if they flow through an oil/water separator. All stormwater shall be managed in accordance with Section 16-209.
- b. All fuel dispensing nozzles shall have automatic shut-off mechanisms to help prevent overfilling. Spill response equipment should be stored in the fuel dispensing area. The proposed location of this equipment shall be indicated on the Spill Contingency Plan required under section 16-210.
- c. ASTs and USTs at fueling areas must be in compliance with local, state, and federal regulations and comply with the Standards detailed in other portions of this article.

(2). **SCRAP AND SALVAGE OPERATIONS**

- a. The Facility shall be designed and operated to consolidate, contain, and collect differing sources of Regulated Substances into manageable point sources. For efficiency, and to prevent contamination of areas not specifically designed for certain activities, the Facility shall be segregated into specific areas especially equipped for receiving, holding, dismantling, cleaning, inventory flow, parts storage, core storage, fuel storage, special waste storage, crushing, sales, shipping, receiving, and the office (as applicable to the proposed use).
- b. The receiving area shall be designed for temporary storage prior to any dismantling or transfer to a longer-term storage area. This area shall have an impervious surface and be able to sufficiently contain damaged and/or leaking items. Fluid-containing items, including vehicles, should be inspected for leaks or unwanted contents at the time of receiving.
- c. Fluid removal from salvaged items shall be conducted, as soon as possible after receiving the item and in an area equipped to drain fluids into appropriate collection containers.

- d. The dismantling of fluid-containing items shall be conducted in an area equipped to drain fluids into appropriate collection vessels. The area must be able to contain spills from these vessels and from the work area.
- e. Steam cleaning of parts shall be conducted only when absolutely necessary and only in an area capable of fully containing associated wastewater for appropriate disposal.
- f. The Facility must have an established secure area to store certain components of vehicles and other materials that pose special hazards, such as mercury switches, air-bags containing sodium azide propellants, lead-acid batteries, tires, and oily rags. The Facility also must be able to accommodate storage of various fluids, which, depending on items received and processed, could include gasoline, diesel fuel, motor oil, transmission oil, power steering fluid, brake fluid, hydraulic fluid, differential fluid, antifreeze, windshield washer fluid, refrigerants, battery acid, cleaning solvents, and contaminated water. Waste fluid storage areas must conform with all other applicable federal, state and local requirements.
- g. Once all fluids have been drained and there is no more possibility of Regulated Substances reaching the ground, salvaged items may be stored in a long-term storage area until the item is sold or otherwise disposed.
- h. Scrap vehicles or other units brought into a commercial junk yard must have all fluids removed in accordance with current federal, state, and local regulations before onsite crushing. However, the crushing area must be adequately contained to capture any residual fluids.
- i. Parts that are not scrapped, but are saved to be remanufactured, rebuilt or otherwise salvaged for additional use shall be stored on an impervious, contained surface if they contain fluids or lubricants.
- j. Concrete or asphalt surfaces at junk and salvage yards must be properly designed to minimize cracking as they age. These surfaces shall be sealed with epoxy or another chemical resistant material, as necessary, and cracks shall be sealed as they appear.

(3). **MOTOR VEHICLE REPAIR/SERVICE STATIONS, GARAGES, AND/OR BODY REPAIR**

- a. Floor drains in service bays and vehicle washing areas must either be connected to a holding tank with a gravity discharge pipe, to a sump that pumps to a holding tank, or to an appropriately designed oil/grit separator that discharges to the public sanitary sewer.
- b. Vehicle washing is encouraged to be conducted at a commercial car wash, especially when cars only need to be washed occasionally. If vehicle washing is conducted regularly, it should be done either in a wash bay or on a wash pad, in accordance with the Standards detailed in 16.204.
- c. Service bay floors and service pits must be constructed of concrete and sealed with an impervious material to facilitate clean-up without using solvents.
- d. Areas where vehicles are stored or repaired must have provisions for containment of vehicle leaks and shall be paved with an impervious material.
- e. Parts cleaning and degreasing should be isolated from other operations, preferably located within a containment area with no direct access outside the Facility, and the floor must be sealed with a suitable impermeable material.
- f. Auto body painting shall be done in a separate, secure area with no floor drains.

Sec. 16-209. Wellhead Protection Area Stormwater Management.

- (1). Stormwater runoff shall be conveyed in an impervious stormwater system through the wellhead protection area directly to the Grand River. Stormwater discharges directly to Versluis Lake and the Coit Avenue Gravel Pit Pond are prohibited.
- (2). The stormwater conveyance systems and stormwater management systems shall be designed in accordance with the Township Stormwater Management Ordinance (chapter 28 article VI of the Code of Ordinances) and Master Plan, and in accordance with Kent County Drain Commissioner criteria. Where appropriate, the systems shall also be designed in accordance with Kent County Road Commission and Michigan Department of Transportation requirements.
- (3). Stormwater systems shall be designed to manage a 1.0% exceedence frequency (100 year) event for fully developed areas. The storm event shall be as defined in the Kent County Drain Commissioner's Drainage rules. Impervious lined stormwater storage systems, i.e., storm sewer pipe systems, paved parking lots, lined ponds, are permitted for sites with limited capacity in downstream conveyance systems.

- (4). Parking lots, any type of vehicle or trailer storage areas, and outside equipment storage areas must be paved. Where the Township Public Services Director determines full compliance is not reasonable, the Director can approve a non-conforming site subject to the property owner signing a long term corrective action plan with the Township.

Sec. 16-210. Spill Contingency Plan.

- (1). A Facility within the WHPZ that possesses, uses, processes, stores or generates 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 at any given time shall submit a Spill Contingency Plan for the Facility to the Director of Public Services. Furthermore, any Facility that is subject to any of the requirements set forth in Section 16-208 shall submit a Spill Contingency Plan regardless of the amount of Regulated Substances located at the Facility.
- (2). A Facility currently possessing Regulated Substances in quantities exceeding the aforementioned amounts shall submit the Spill Contingency Plan within two (2) years from the effective date of this article, provided however, if the Director of Public Services determines, based on the location, use and size of a Facility, that the Facility poses a greater than normal risk to the ground water, the Director of Public Services may require the submission of a Spill Contingency Plan within one year of receiving notice of the shorter time period from the Township.
- (3). A Facility not currently possessing, using, processing, storing or generating Regulated Substances in quantities exceeding the aforementioned amounts shall submit the Spill Contingency Plan prior to such Facility possessing, using, processing, storing or generating Regulated Substances in excess of the limits described in subsection 1.
- (4). The Township may also require a Spill Contingency Plan for a use or Facility not otherwise required to submit a Spill Contingency Plan if the proposed land use or Facility poses a direct or potential significant adverse impact to a surface water feature, such as a river, stream, pond, lake, or wetland. The time period for submitting the Spill Contingency Plan shall be established by the Director of Public Services.
- (5). The Spill Contingency Plan shall contain a written analysis of the potential for a release of each Regulated Substance stored at the site. This analysis shall consider the potential for release during transfer of the Regulated Substance to and from the storage area, during storage of the Regulated Substance, and during use of the Regulated Substance. In addition, the site should evaluate the likely size of a release for each scenario, as well as the likely destination of the release (e.g., to a floor drain, sump, storm drain, etc.).
- (6). The Spill Contingency Plan shall identify all release prevention measures that will minimize the likelihood and/or reduce the impact of such a release at the Facility such as work practices, housekeeping practices, inspection practices, and/or structural controls (e.g., secondary containment).
- (7). The Spill Contingency Plan shall identify procedures to be followed in the event of a release of a Regulated Substance. Written procedures should be established both for minor releases, which pose no danger to health or the environment and can be handled by trained employees in the immediate vicinity of the release, and for significant releases that have one or more of the following characteristics:
 - a. The spill cannot be contained safely by site personnel.
 - b. Sufficient resources are not available at the site to contain the spill.
 - c. The spilled material has entered the site's drain system (sanitary or storm) and cannot be contained.
 - d. The spilled material has entered site soils or a vegetated area.
- (8). The Spill Contingency Plan shall also include the following:
 - a. Identification of responsibilities of various site personnel in the event of an emergency.
 - b. Internal site emergency notification procedures (chain-of-command reporting).
 - c. Emergency contact information, including, at a minimum:
 1. Key site personnel/emergency coordinators.
 2. At least one 24-hour emergency contact.
 3. Local emergency response agencies (e.g., police department, fire department, ambulance).

4. Local, state, and federal environmental agencies.
 5. At least one spill response contractor able to respond to the site in the event of a significant spill.
- d. An inventory of onsite spill response equipment and location of such equipment.
 - e. Methods to determine proper disposal of waste generated by a release of Regulated Substances.
 - f. The location and extent of any contaminated soils and/or Groundwater on or at the Facility.
 - g. The location of any portion of the Facility used to temporarily store contaminated soils (such as during removal of an UST).
 - h. All currently functioning, proposed, and abandoned wells, including potable water wells and monitoring wells.
 - i. The locations of existing and proposed septic tanks and drain fields.
 - j. The location of loading/unloading areas used to transfer Regulated Substances.
 - k. The location of Regulated Substance Storage Units containing greater than 55 gallons for liquids or 440 pounds for solids. All ASTs and USTs.
 - l. The location of objects used as physical barriers for ASTs.
 - m. Any other information that the Director of Public Services determines is necessary to assess the risk.
- (9). In those cases where a Facility using or storing Regulated Substances is required under state or federal environmental laws to develop a written spill response plan, such as a Pollution Incident Prevention Plan (PIPP), a Spill Prevention Control and Countermeasure (SPCC) Plan, Hazardous Waste Contingency Plan and/or Stormwater Pollution Prevention Plan (SWP3), the Facility may substitute the existing plan(s) for the Spill Contingency Plan, provided that all of the elements required in this article are included in one or more existing emergency response plans. If the existing plan(s) addresses part, but not all, of the requirements, the Facility may prepare an addendum to the existing plan(s) so that all requirements are met.
- (10). If upon review the Director of Public Services determines that the Spill Contingency Plan is incomplete or does not adequately address one or more of the requirements contained in this article, the Spill Contingency Plan shall be returned to the Facility Operator with a notice as to the deficiency(ies) and a revised Spill Contingency Plan shall be resubmitted to the Director of Public Services within 35 days of the notice.

Sec. 16-211. Inactive Operations.

If a Facility located within the WHPZ, and at which Regulated Substances are located in excess of fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights, becomes unoccupied and has no activity for at least thirty (30) consecutive days, the Facility Operator shall do the following:

- (1). Within 7 days of the 30 day period, take such steps as necessary to secure the site such that vandals and all other persons cannot gain access to the Regulated Substances;
- (2). Within 30 days of the 30 day period, provide to the Director of Public Services a document that identifies the Facility, the date of inactivity, the Regulated Substances that exist on site, and the name, address and telephone number of both the owner and the Facility Operator if different; and
- (3). Within 6 months of the 30 day period, remove all Regulated Substances from the site.

Sec. 16-212. Change of Use.

For all industrial and commercial Facilities within the WHPZ that have Regulated Substances in quantities exceeding 55 gallons aggregate for liquids and/or 440 pounds aggregate for solids, the Facility Operator shall give notice to the Director of Public Services upon a change of any tenant, significant change in an existing operation, an increase in the amount of Regulated Substances above and beyond what was previously disclosed that are located at the Facility, or any material change in the types of Regulated Substances located at the Facility, and such other information as the Director of Public Services may request and need in order to evaluate the use of the Facility as it relates to a potential risk to the Water Supply System.

Sec. 16-213. Variances.

- (1). If a Facility Operator of a Facility within the WHPZ believes the requirements of this article impose an unreasonable burden on the use of the property, the Facility Operator may seek a variance from the Director of Public Services. Such a request must be in writing with sufficient detail to allow the Director of Public Services to understand the underlying facts and proposed variance. If the Director of Public Services determines that additional information is needed, the request for additional information shall be made within 30 days of receipt of the Facility Operator's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of receipt of the Facility Operator's request, the Director of Public Services shall issue a written response. The response shall grant, deny, or grant partial or different relief than was requested. A grant, partial or complete, may relieve strict compliance with this article. A variance may be granted on a temporary or permanent basis. Reasonable conditions may be imposed as part of such a grant.
- (2). Whenever the Director of Public Services grants a variance, relieving strict compliance with one or more provisions of this article, the Director of Public Services shall forthwith forward the written decision to the Township Clerk. Within 21 days of the decision, the Township Board may at a regular or special meeting of the Township Board decide to review the decision of the Director of Public Services to grant the variance. If the Township Board decides to review the decision of the Director of Public Services, the Director of Public Services shall, if he or she has not already done so, forward to the Township Clerk the record upon which the decision was based. Thereafter, the Township Board shall set the matter for a hearing within 30 days of its decision to review the matter. Notice of the hearing shall be given in writing to the Facility Operator by first class mail no less than 10 days prior to the hearing. The Facility Operator shall be given the opportunity to present evidence at the hearing in person, in writing or by representative. The Township Board may also request additional information from the Director of Public Services or any other person. The Township Board's review of the matter shall be *de novo* and shall be based on the record forwarded by the Director of Public Services and any other information presented at the hearing. The Township Board, by written decision, may affirm, reverse, or modify the decision of the Director of Public Services.
- (3). The Director of Public Services or any body reviewing the Director of Public Services' decision under this section or Section 16-214 shall be guided by the primary goal of protecting the public water supply without creating undue hardship.

Sec. 16-214. Appeal Rights.

- (1). A Facility Operator who disagrees with a decision of the Director of Public Services, or whose variance request has been denied in whole or in part, may appeal the decision or the variance decision to the Township Board or its designated committee if one is appointed by Township Board Resolution by submitting a written notice of appeal to the Township Clerk. The notice of appeal must be received by the Township Clerk within 21 days from the date of a decision or determination on a variance request, with enough detail to allow the Township Board or its designated committee to understand the basis for the appeal. Within 30 days of the receipt of such an appeal, the Township Board or its designated committee shall set the matter for hearing. Notice of the hearing shall be given in writing to the applicant by first class mail no less than 10 days prior to the hearing. The applicant shall be given the opportunity to present evidence at the hearing in person, in writing or by representative. The Township Board or its designated committee shall issue a written decision on the appeal. The Township Board or its designated committee's response shall affirm, reverse, or modify the action being appealed.
- (2). In the event the Director of Public Services grants partial relief, and both the Facility Operator appeals the decision to the Township Board pursuant to subsection (1), and the Township Board also decides to review the decision under Section 16-213, the procedures set forth in Section 16-213 shall control to the extent a conflict exists between the two sections.
- (3). If the Facility Operator who has made an appeal does not agree with the Township Board or its designated committee's decision, or if the Facility Operator does not agree with the Township Board's decision after the *de novo* review of the decision of the Director of Public Services, said person may appeal the matter by filing an appeal in the Kent County Circuit Court which may affirm, reverse or modify the decision being appealed. Such an appeal must be filed within 28 days of the Township Board or its designated committee's decision.

Sec. 16-215. Enforcement.

- (1). Whenever the Township determines that a person has violated a provision of this article, the Township may order compliance by issuing a written notice to the Facility Operator setting forth the violation.
- (2). If the Township requires abatement of a violation and/or restoration of affected property and a notice is issued, 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 may be performed by the Township, with the resulting expense thereof charged to the violator.

- (3). Nothing in this section shall require the Township to issue a written notice of a violation before pursuing any other remedy, including court action.

Sec. 16-216. Abatement / Remedial Activities by the Township.

The Township is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this article has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. A responsible party shall reimburse the Township for all reasonable expenses thus incurred by the Township.

Sec. 16-217. Injunctive Relief.

If a person threatens to violate, has violated or continues to violate any provision of this article, the Township may petition the Kent County Circuit Court or other court of competent jurisdiction for injunctive relief restraining the person from activities that would create further violations.

Sec. 16-218. Violations Deemed a Public Nuisance.

Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance per se, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be commenced by the Township.

Sec. 16-219. Civil Infraction.

Any person who violates or refuses to comply with any provision of this article shall be responsible for a municipal civil infraction violation and subject to a fine of not more than \$500.00 together with costs as provided for by ordinance. A Notice of Violation or a Citation charging such a violation may be issued by the Director of Public Services or the Township Ordinance Enforcement Officer, or his or her designee.

Sec. 16-220. Remedies Not Exclusive.

The remedies listed in this article are not exclusive of each other or 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.

Sec 16-221. Severability.

If any section, subsection, sentence, clause, phrase or portion of this article 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 article.

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

Effective Date: This Ordinance shall be in effect and enforceable 30 days after publication.

Ayes: Meek, Harvey, Borek, Hagedorn, Matthews and Weldon

Nays: none

Abstain: none

Absent: Stover

Motion carried. Ordinance #820 Resolution #09-47 declared adopted.

K. Scott Harvey
Plainfield Charter Township Clerk

CERTIFICATE

The foregoing is a true and complete copy of the ordinance adopted by the Charter Township of Plainfield at a regular meeting held on October 19, 2009. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be made available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Township Clerk as required.

K. Scott Harvey
Plainfield Charter Township Clerk

