

ORDINANCE 12

PRIVATE AND TYPE III PUBLIC GROUND WATER SUPPLY

THE COUNTY OF BERRIEN, STATE OF MICHIGAN, ORDAINS:

SECTION 1.0 PURPOSE

The purpose of this Ordinance is to provide a means for safe-guarding the environment in order to protect the health and welfare of the consumer and all residents of Berrien County through the regulation of private and Type III public ground water supply facilities.

SECTION 2.0 AUTHORITY

This Ordinance is adopted pursuant to the authority vested in the County, by and through its Board of Commissioners, under Section 46.11 of the Michigan Compiled Laws and pursuant to authority vested in said Board, and its Department of Health, through Sections 333.2435 and 2441 of the Michigan Compiled Laws, being Sections 2435 and 2441 of Act 368 of the Public Acts of 1978, State of Michigan, as amended.

SECTION 3.0 SCOPE

This Ordinance shall apply to all suppliers of ground water, all ground water supply facilities either existent or which may be hereafter constructed except for Type I or Type II public ground water supplies, as defined by Michigan's Safe Drinking Water Act, Act 399 of the Public Acts of 1976, and Administrative Rules, promulgated thereunder, as amended.

SECTION 4.0 UNLAWFUL TO OCCUPY

No person shall occupy, permit to be occupied, or offer for rent, lease or occupancy any habitable building which is not provided with an approved water supply, which is adequate in design and capacity to meet the peak water demands of the habitable building. Any habitable building which is not served with an approved water supply may be declared unfit for habitation and may be so posted by the health department. The health department may order the owner to connect the building to a municipal water supply, if available, or to construct a water supply in compliance with this code within thirty (30) days.

SECTION 5.0 INCORPORATION OF OTHER REGULATIONS

The Berrien County Health Department incorporates by reference and adopts as part of this code, the following:

1. The "Safe Drinking Water Act", Act No. 399 of the Public Acts of 1976, being sections 325.1001 through 325.1001 through 325,1023 of the Michigan Compiled Laws, and the following sections of Administrative Rules promulgated pursuant to that Act: Part 1, being R325.10101 to R325.10115, Part 4, being R325.10401 to R325.10409; Parts 7 and 8 being R325.10701 to R325.10833; and Parts 10 through 14, being R325.11001 to R3125.11407 of the Michigan Administrative Code and any subsequent revisions thereto, and;
2. Part 127 of Act No. 368 of the Public Acts of 1978, of Michigan's Public Health Code, being sections 333.12701 through 333.12715 of the Michigan Compiled Laws, and the Administrative Rules promulgated pursuant to that Act, being

R325.1601 through R325.1676 of the Michigan Administrative Code, and any subsequent revisions thereto.

Sections 5.1 General Incorporation by Sequence

Except as may be otherwise specifically defined hereunder, the terms used in this Ordinance shall convey the definitions as set forth under Part 127 of Public Act 368 of 1978, as amended, and Administrative Rules of the Department of Public Health, as promulgated thereunder, as amended, and under Act 399 of the Public Acts of 1976, and Administrative Rules Promulgated thereunder, as amended.

Sections 5.2 Definition of “Water Supply”

For purposes of this Ordinance, “water supply” shall mean a system of pipes and structures through which water is obtained, including, but not limited to, the source of the water, such as wells, hauled water storage tanks, and pumping and treatment equipment, storage tanks, pipes appurtenances, or a combination thereof, used or intended to furnish water for domestic or consumer use.

Section 5.3 Definition of “Abandoned Well Water Supply”

“Abandoned water supply” means a water supply whose use has been permanently discontinued, a water supply or portion thereof which is in such disrepair that its continued use for the purpose of obtaining water is impractical, a water supply which has been left uncompleted, a water supply which is a threat to other sources of water or a water supply which is or may be a health or safety hazard.

SECTION 6.0 WATER SUPPLY REQUIREMENTS

It shall be unlawful for any person to occupy, or permit to be occupied, any building which is not provided with a safe and adequate water supply.

It shall furthermore be unlawful for any person to supply water in violation of any provision of the laws and regulations set forth in Section 5.0 of this Ordinance.

SECTION 7.0 WATER SUPPLY CONSTRUCTION PERMIT

Section 7.1 Requirement of a Permit

No person shall begin construction of a new water supply, or make significant change to an existing water supply, without first obtaining a water supply construction permit from the Berrien County Health Department. Significant change to existing water supply would include, by way of illustration, but not by way of limitation, replacing the well casing, removing a well casing from the ground, changing aquifers or sources of water, changing screen elevation, installing a liner pipe, or significantly increasing the capacity of the water supply.

Provided, however, this Section shall not apply either to a water supply excluded under Section 12703 of Part 127 of Act 368, the same being MCL 333.12703, or to a water supply that is to be used to provide water for plants, livestock, or other agricultural processes, and will not be used to supply water to habitable structures or for human consumption provided that the well and water supply are not physically connected to any habitable structure.

Section 7.2 Permit Procedure

Section 7.2.1 Application for Permit

An application for a Water Supply Construction Permit shall be made on forms provided by the health department. A completed application shall include all information as may be deemed necessary by the health department, including at a minimum:

- a. Signature of the property owner or their authorized representative;
- b. Information regarding proposed location of the water supply facility, relationship of same to buildings, property lines, known, suspected or potential sources of contamination;
- c. Information regarding property restrictions or limitations;
- d. Payment of applicable fees.

Section 7.2.2 Issuance of Denial of Permit

The Health Officer shall issue a Water Supply Construction Permit when the information provided indicates that the requirements of this Code and/or applicable State statutes have been or will be met, and that the quality of the groundwater will not be degraded. A site inspection of the proposed well location may be conducted at the discretion of the health department or at the request of the property owner or licensed well driller. The Health Officer may propose limitations or conditions which the Health Officer deems necessary to protect the public health, or groundwater supply.

The Health Officer may deny an application for Water Supply Construction Permit when incomplete or false information has been supplied by the applicant, or when the Health Officer determines that the requirements of the Ordinance and/or applicable State statutes have not or cannot be met. The denial shall be forwarded to the applicant in writing or in person.

Section 7.3 Effect of Issuing Construction Permit

The issuance of a Construction Permit shall serve as authorization to the permittee to construct the proposed water supply in accordance with the application and any conditions or limitations imposed in the Permit. Such authorization shall not, however, relieve permittee of any obligation or limitation that may otherwise be imposed under any other applicable law, or section of this Ordinance, nor shall issuance of a Construction Permit be deemed in any way to authorize permittee to use water supply except for testing purposes.

Section 7.3.1 Priority Over Building Permits

Where an approved municipal water supply is not available, a municipality, township or other agency shall not issue a building permit, or otherwise allow construction to commence, for any habitable building, until a water supply construction permit has first been issued by the health department.

SECTION 8.0 APPROVAL TO USE WATER SUPPLY

Section 8.1 Unlawful Use of Water Supply

No person shall use, or permit use of a water supply subject to the permit requirements of this Ordinance except for testing purposes, unless and until the construction and installation of same has been approved by the Health Officer.

Section 8.2 Issuance of Water Supply Use Permit

The Health Officer shall, upon determination that the water supply has been constructed and installed in accordance with Construction Permit requirements, conditions and limitations, issues a Water Supply Use Permit. Such Use Permit may be issued conditionally pending receipt by Health Officer of a completed "Water Well and Pump Record" prepared by the well driller and/or pump installer, as applicable, and results of satisfactory water samples.

The Health Officer may elect to perform an on-site inspection prior to issuance of the Use Permit.

Provided, however, Health Officer shall not issue a final approval until Health Officer has received copies of the results of the analysis of water samples indicating that raw water quality meets minimum public health standards. Water samples analysis shall include coliform bacteria and any other parameter deemed necessary by the Health Officer. Analysis of water samples shall be performed by laboratories certified by the Michigan Department of Public Health. All water samples shall be collected in accordance with protocol established by the health department.

SECTION 9.0 DEVIATIONS

The Health Officer may issue a deviation from the requirements set forth herein, or incorporated herein by reference, provided such deviation does not result in a violation of State Law, if the spirit and intent of such requirements and laws are observed and the public health, safety, and welfare are assured.

Section 9.1 Emergency Well Repair / Replacement

In order to expedite emergency well repair / replacement, a licensed well driller may on occasion repair / replace an existing water well prior to obtaining the Water Supply construction Permit. In these situations, the application and permit fee must be submitted within three (3) business days of the well repair / replacement.

SECTION 10.0 APPLICATION AND APPROVAL FEE

A fee to be determined by the Berrien County Board of Health shall be paid by any person for each water supply facility subject to the permit and approval requirements of this Ordinance. No Use Permit shall be issued prior to satisfaction of the fee payment requirement.

SECTION 11.0 ENFORCEMENT

The health Officer and subordinates shall be authorized to administer and enforce this Ordinance and to seek legal action as may be necessary and appropriate, to assure compliance with same.

SECTION 12.0 PENALTIES

Any person who shall fail to comply with the provisions set forth herein shall be deemed guilty of a misdemeanor and may be punished by a fine of not more than \$200 or imprisonment in the County Jail for not more than ninety (90) days or both, at the discretion of the Court.

SECTION 13.0 SAVINGS CLAUSE

Should any part or provision of this amendatory Ordinance be deemed of no force and effect, then any part or provision not so determined infirm shall remain in full force and effect.

SECTION 14.0 NOTIFICATION

Notification of the adoption of these regulations under authority of Act 368 of the Public Acts of 1978, as amended, shall be published in a newspaper circulated in the county within thirty (30) days after such action, indicating where copies of such regulations can be obtained.

SECTION 15.0 EFFECTIVE DATE

These regulations shall become effective fifty (50) days after the date of publication.

ADOPTED: July 3, 1997