

City of St. Charles, Illinois

Ordinance No. 2008-M-11

**Ordinance Amending Title 13,
"Public Utilities," Chapter
13.16, "Water," Section
13.16.310, "Private Water Wells
Limited" and Section 13.16.315,
"Variations" of the St.
Charles Municipal Code**

**Adopted by the
City Council
of the
City of St. Charles
January 22, 2008**

**Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, January 25, 2008**

Nancy Garrison

City Clerk



DEFINITION 01/25/08
PAPER PACKET FORM

REFER TO: 7181
MINUTES 1/22/08
PAGE _____

ORDINANCE NUMBER 2008-M-11

Amending Title 13, "Public Utilities", Chapter 13.16, "Water", Section 13.16.310, "Private water wells limited" and Section 13.16.315, "Variations" of the St. Charles Municipal Code

WHEREAS, certain properties in the City of St. Charles, Illinois have been used over a period of time for commercial/industrial purposes; and

WHEREAS, because of said use, concentrations of certain chemical constituents in the groundwater beneath the City may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code 620 or Tier 1 remediation objectives as set forth in 35 Illinois Administrative Code 742; and

WHEREAS, the City of St. Charles desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, ILLINOIS:

1. Title 13, "Public Utilities", Chapter 13.16, "Water", Section 13.16.310, "Private water wells limited" and Section 13.16.315, "Variations" of the St. Charles Municipal Code, be and is hereby amended by deleting the same and substituting the following therefore:

13.16.310 - Prohibiting the use of groundwater as a potable water supply

A. Use of groundwater as a potable water supply prohibited.

Except for such uses or methods in existence before January 22, 2008, the use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of St. Charles, as a potable water supply, by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition does not include the City of St. Charles nor the City of St. Charles Park District (upon approval from the City of St. Charles).

B. Penalties.

Any person violating the provisions of this ordinance shall be subject to a fine of up to \$100.00 for each violation.

C. Definitions.

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

“Potable water” is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

2. Memorandum of Understanding.

The Mayor of the City of St. Charles is hereby authorized and directed to enter into a Memorandum of Understanding with the Illinois Environmental Protection Agency (“Illinois EPA”) (Attached as Exhibit A) in which the City of St. Charles assumes responsibility for tracking all sites that have received no further remediation determinations from the Illinois EPA, notifying the Illinois EPA of changes to this ordinance, and taking certain precautions when siting public potable water supply wells.

3. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

4. Severability.

If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

5. That after the adoption and approval hereof the Ordinance shall (i) be printed or published in a book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

PRESENTED to the City Council of the city of St. Charles, Illinois, this 22nd day of January, 2008.

PASSED by the City Council of the city of St. Charles, Illinois, this 22nd day of January, 2008.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 22nd day of January, 2008.


Donald P. DeWitte, Mayor

ATTEST:


City Clerk



Voice Vote:

Ayes: 10

Nays: 0

Absent:

Abstain:

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ST. CHARLES AND THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY REGARDING THE USE OF A LOCAL GROUNDWATER OR WATER WELL ORDINANCE AS AN ENVIRONMENTAL INSTITUTIONAL CONTROL.

I. PURPOSE AND INTENT

- A. This Memorandum of Understanding (“MOU”) between the City of St. Charles and the Illinois Environmental Protection Agency (“Illinois EPA”) is entered into for the purpose of satisfying the requirements of 35 Ill. Adm. Code 742.1015 for the use of groundwater or water well ordinances as environmental institutional controls. The Illinois EPA has reviewed the groundwater or water well ordinance of the City of St. Charles (Attachment A) and determined that the ordinance prohibits the use of groundwater for potable purposes and/or the installation and use of new potable water supply wells by private entities but does not expressly prohibit those activities by the unit of local government itself. In such cases, 35 Ill. Adm. Code 742.1015(a) provides that the unit of local government may enter into an MOU with the Illinois EPA to allow the use of the ordinance as an institutional control.
- B. The intent of this Memorandum of Understanding is to specify the responsibilities that must be assumed by the unit of local government to satisfy the requirements for MOUs as set forth at 35 Ill. Adm. Code 742.1015(i).

II. DECLARATION AND ASSUMPTION OF RESPONSIBILITY

In order to ensure the long-term integrity of the groundwater or water well ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the groundwater or water well ordinance is effectively managed, the City of St. Charles hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(d)(2) and (i):

- A. The City of St. Charles will notify the Illinois EPA Bureau of Land of any proposed ordinance changes or requests for variance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35 Ill. Adm. Code 742.1015(i)(4));
- B. The City of St. Charles will maintain a registry of all sites within its corporate limits that have received “No Further Remediation” determinations in reliance on the ordinance from the Illinois EPA (35 Ill. Adm. Code 742.1015(i)(5));
- C. The City of St. Charles will review the registry of sites established under paragraph II. B. prior to siting public potable water supply wells within the area covered by the ordinance (35 Ill. Adm. Code 742.1015(i)(6)(A));

- D. The City of St. Charles will determine whether the potential source of potable water has been or may be affected by contamination left in place at the sites tracked and reviewed under paragraphs II. B. and C. (35 Ill. Adm. Code 742.1015(i)(6)(B)); and
- E. The City of St. Charles will take action as necessary to ensure that the potential source of potable water is protected from contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(i)(6)(C)).

NOTE: Notification under paragraph II. A. above or other communications concerning this MOU should be directed to:

Manager, Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

III. SUPPORTING DOCUMENTATION

The following documentation is required by 35 Ill. Adm. Code 742.1015(i) and is attached to this MOU:

- A. Attachment A: A copy of the groundwater or water well ordinance certified by the city clerk or other official as the current, controlling law (35 Ill. Adm. Code 742.1015(i)(3));
- B. Attachment B: Identification of the legal boundaries within which the ordinance is applicable (certification by city clerk or other official that the ordinance is applicable everywhere within the corporate limits; if ordinance is not applicable throughout the entire city or village, legal description and map of area showing sufficient detail to determine where ordinance is applicable) (35 Ill. Adm. Code 742.1015(i)(2)).
- C. Attachment C: A statement of the authority of the unit of local government to enter into the MOU (council resolution, code of ordinances, inherent powers of mayor or other official signing MOU – attached copies) (35 Ill. Adm. Code 742.1015(i)(1)).

IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU to be signed as follows:

FOR: _____

City of St. Charles, IL

BY:  _____
Donald P. DeWitte, Mayor

DATE: January 22, 2008

FOR: Illinois Environmental Protection Agency

BY: _____
Manager, Division of Remediation Management
Bureau of Land

DATE: _____

State of Illinois)
)
) ss.
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on January 22, 2008, the Corporate Authorities of such municipality passed and approved Ordinance No. 2008-M-11, entitled

"Ordinance Amending Title 13,
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Charles Municipal Code,"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2008-M-11, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on January 25, 2008, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 22nd day of January 2008.



Nancy Garrison

Municipal Clerk