

Common Addresses/PINs:

1061 South Washington Street,
Naperville, IL
PIN: 08-19-318-002

5 East Gartner Road
Naperville, IL
PIN: 08-19-312-031

**PREPARED BY AND
RETURN TO:**

CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

ORDINANCE NO. 24 - _____

**AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER
AS A POTABLE WATER SUPPLY BY THE INSTALLATION
OR USE OF POTABLE WATER SUPPLY WELLS
OR BY ANY OTHER METHOD WITHIN THE SPECIFIED LIMITS FOR THE
PROPERTIES LOCATED AT 1061 SOUTH WASHINGTON STREET AND
5 EAST GARTNER ROAD, NAPERVILLE, ILLINOIS 60540,
INCLUDING POINTS OF WITHDRAWAL BY THE CITY OF NAPERVILLE**

1. **WHEREAS**, certain real property located at 1061 South Washington Street, Naperville, IL, which is legally described on **Exhibit A** and depicted on **Exhibit B**, has been used over a period of time for commercial purposes including operating as a gas station, (hereinafter the “**Commercial Property**”); and

2. **WHEREAS**, because of said use on the Commercial Property, concentrations of certain chemical constituents in the groundwater beneath the City of Naperville on the Commercial Property as well as adjacent residential real property (hereinafter the “**Other Property**”) located at 5 East Gartner Road, Naperville, IL and

which is legally described on **Exhibit A** and depicted on **Exhibit B**, as well as adjacent City of Naperville rights-of-way legally described on **Exhibit A** and depicted on **Exhibit B**, may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code ("**Ill. Adm. Code**") 620 or Tier 1 remediation objectives as set forth in 35 Ill. Adm. Code 742; and

3. **WHEREAS**, the owner/operator of the Commercial Property is seeking issuance of a No Further Remediation ("**NFR**") letter from the Illinois Environmental Protection Agency ("**IEPA**") for the Commercial Property pursuant to the IEPA's Site Remediation Program; and

4. **WHEREAS**, in order to obtain an NFR for the Commercial Property, the IEPA has advised that it will be necessary for the City of Naperville to pass an ordinance as provided for in Title 35, Part 742.1015 of the Ill. Adm. Code; and commonly referred to as an "institutional control", prohibiting the use, or attempt to use as a potable water supply, groundwater from within that portion of the corporate limits of the City of Naperville as described on **Exhibit A** and depicted with hash-marks on **Exhibit B** which includes the Commercial Property, the Other Property, and City of Naperville rights-of-way; and

5. **WHEREAS**, the City of Naperville 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; and

6. **WHEREAS**, the public water supply for the Commercial Property and the Other Property is provided from Lake Michigan through the DuPage County Water Commission by the City of Naperville.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers that:

SECTION 1: Recitals incorporated/Exhibits Incorporated. The foregoing Recitals are substantive and are incorporated in this Section 1 as though fully set forth. **Exhibit A** and **Exhibit B** are deemed incorporated herein and made part hereof.

SECTION 2: Use of groundwater as a potable water supply prohibited. Except for such uses or methods in existence before the effective date of this Ordinance, the use or attempt to use, as a potable water supply groundwater from within the specified limits of the Commercial Property and the Other Property, or adjacent City of Naperville rights-of-way, legally described on **Exhibit A** and depicted on **Exhibit B**, by the installation or drilling of wells or by any other method is hereby prohibited, including points of withdrawal by the City of Naperville.

SECTION 3: Penalty. Any person or entity violating the provisions of this Ordinance shall be subject to a fine of up to \$500.00 for each violation, and each day a violation continues shall constitute a separate offense.

SECTION 4: 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.

SECTION 5: Repealer. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed insofar as they are in conflict with this Ordinance.

SECTION 6: 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.

SECTION 7: Recording. This Ordinance, along with the Exhibits attached hereto, and an instrument from IEPA memorializing IEPA's determination of "NFR" as to the Commercial Property legally described on **Exhibit A** and depicted on **Exhibit B**, shall be recorded against the Commercial Property and the Other Property with the Office of the DuPage County Recorder within forty-five (45) days of receipt of an NFR letter from the IEPA, and a copy of such recorded document shall further be submitted to the Environmental Health Services Division of the DuPage County Health Department and the IEPA within thirty (30) days after said recording.

SECTION 8: Effective date. This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2024.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2024.

Scott A. Wehrli
Mayor

ATTEST:

Dawn C. Portner
City Clerk