

P.I.N.s/Common Addresses:
See attached Exhibit A

**PREPARED BY AND
RETURN TO:**

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

ORDINANCE NO. 19 - _____

**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 PROPERTY AT 1201-1309 NAPER BOULEVARD
(ODD-NUMBERED ADDRESSES ONLY), 1230, 1236, 1248, 1250, 1252,
AND 1256 NAPER BOULEVARD, AND 1236-1276 HOBSON OAKS DRIVE (EVEN-
NUMBERED ADDRESSES ONLY), NAPERVILLE, ILLINOIS 60540,
INCLUDING POINTS OF WITHDRAWAL BY THE CITY OF NAPERVILLE**

WHEREAS, certain properties described on **Exhibit A** and depicted on **Exhibit B** in the City of Naperville, Illinois have been used over a period for commercial/industrial purposes (hereinafter “**Commercial Properties**”); and

WHEREAS, because of said use, concentrations of certain chemical constituents in the groundwater beneath the City of Naperville on the Commercial Properties as well as other properties (“**Other Properties**”) described on **Exhibit A** and depicted on **Exhibit B**, which Exhibits are attached hereto and made part hereof, 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

WHEREAS, the owner/operator of the Commercial Properties is seeking issuance of a No Further Remediation (“**NFR**”) letter from the Illinois Environmental Protection Agency (“**IEPA**”) pursuant to the IEPA’s Site Remediation Program; and

WHEREAS, in order to obtain an NFR for the Commercial Properties, 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 and depicted on Exhibit A and Exhibit B which includes the Commercial Properties and the Other Properties; and

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

WHEREAS, the public water supply for the Properties 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. The foregoing Recitals are substantive and are incorporated in this Section 1 as though fully set forth.

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 described and depicted on

Exhibit A and 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 Properties described in **Exhibit A**, shall be recorded with the Office of the DuPage County Recorder within forty-five (45) days of receipt of a determination of "NFR" by 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 IEPA within thirty (30) days after said recording.

SECTION 8: Effective date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk