

P.I.N.: 07-23-100-005

PREPARED BY:

ARCADIS U.S., INC.
101 CREEKSIDE RIDGE COURT
SUITE 200
ROSEVILLE, CA 95678

RETURN TO:

CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

ORDINANCE NO. 20-____

**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 ON PROPERTY LOCATED AT 1598 WEST
OGDEN AVENUE, NAPERVILLE, IL 60540 AND ADJACENT RIGHTS-OF-WAY,
INCLUDING POINTS OF WITHDRAWAL BY THE CITY OF NAPERVILLE**

WHEREAS, certain properties in the City of Naperville, 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 of Naperville on property located at 1598 West Ogden Avenue,
Naperville, IL 60540 (P.I.N. 07-23-100-005), and adjacent City of Naperville rights-of-way, 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 UST owner/operator of the Property at 1598 West Ogden Avenue,
Naperville, IL 60540 is seeking issuance of a No Further Remediation Letter ("NFR Letter") from the

Illinois Environmental Protection Agency ("IEPA") pursuant to the IEPA's Leaking Underground Storage Tank Program; and

WHEREAS, in order to obtain an NFR for the Property at 1598 West Ogden Avenue, Naperville, IL 60540, 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 illustrated and legally described in Exhibit A; 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 property at 1598 West Ogden Avenue, Naperville, IL 60540, and the specified City of Naperville rights-of-way adjacent thereto, described herein and illustrated in Exhibit A, 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 illustrated and legally described

in **Exhibit A**, attached hereto and incorporated herein, 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 Exhibit attached hereto, and an instrument from IEPA memorializing IEPA's determination of "NFR" as to the property at 1598 West Ogden Avenue, Naperville, IL 60540 as 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 _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk

EXHIBIT A

City of Naperville
Limited Area Ordinance Area and Description

LEGAL DESCRIPTION BUCHANAN SITE #530

07-23-100-005 (1598 W. OGDEN AVENUE-BUCHANAN SITE #530)

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE WEST 1/4 CORNER OF SECTION 23; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 1263.20 FEET ALONG THE WEST LINE OF SECTION 23 TO THE SOUTHWEST CORNER OF LOT 1 IN ALFRED RUBIN'S ASSESSMENT PLAT OF PART OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 5, 1959 AS DOCUMENT 921797, IN DUPAGE COUNTY, ILLINOIS, SAID POINT BEING 247.12 FEET NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST OF THE INTERSECTION OF THE CENTER LINE OF AURORA- NAPERVILLE ROAD (STATE HIGHWAY 65) (100 FEET WIDE) WITH THE WEST LINE OF SAID SECTION 23; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 50.00 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF OGDEN AVENUE (STATE ROUTE 34) (100 FEET WIDE) FOR THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 200.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 138.77 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF AURORA- NAPERVILLE ROAD; THENCE SOUTH 77 DEGREES 08 MINUTES 29 SECONDS WEST 205.14 FEET ALONG SAID NORTHERLY RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF OGDEN AVENUE; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 184.42 FEET ALONG SAID EAST RIGHT OF WAY LINE TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

AND ALSO:

OGDEN AVENUE AND AURORA-NAPERVILLE ROAD RIGHT-OF-WAY

THAT PART OF OGDEN AVENUE (STATE ROUTE 34) DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST INTERSECTION OF AURORA-NAPERVILLE ROAD (STATE HIGHWAY 65) AND OGDEN AVENUE (STATE ROUTE 34) THENCE NORTH 200.00 FEET ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID OGDEN AVENUE; THENCE WEST AT RIGHT ANGLES THERETO 100.00 FEET, MORE OR LESS TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID OGDEN AVENUE; THENCE SOUTHWESTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE NORTHEASTERLY CORNER OF LOT 1 IN TOTH ASSESSMENT PLAT (AS PLATTED AND RECORDED AS DOC. NO. R1961-027401) SAID POINT ALSO BEING THE SOUTHWEST INTERSECTION OF SAID AURORA-NAPERVILLE ROAD AND OGDEN AVENUE; THENCE NORTHEAST ALONG THE SOUTHWESTERLY PROLONGATION OF SAID AURORA-NAPERVILLE ROAD TO THE NORTHWEST CORNER OF LOT 1 OF DWIGHT'S SUBDIVISION (AS PLATTED AND RECORDED AS DOC. NO. R1986-107802); THENCE CONTINUING NORTHEAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID AURORA-NAPERVILLE ROAD, SAID LINE ALSO BEING THE NORTH LINE OF LOT 1 OF SAID DWIGHT'S SUBDIVISION, TO THE NORTHEAST CORNER OF LOT 1 OF SAID DWIGHT'S SUBDIVISION; THENCE NORTH TO THE SOUTHEAST CORNER OF PROPERTY DESCRIBED IN DOCUMENT NUMBER R2014-072130, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID AURORA-NAPERVILLE ROAD; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE SOUTHWEST TO THE POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

OGDEN AVENUE (IL RTE 34)

07-23-100-005
1598 W.
OGDEN AVE.
LOT 1
ALFRED
RUBIN'S PLAZA

AURORA-NAPERVILLE ROAD (IL RTE 65)

0 50' 100' 200'

NOTE:
1. HATCHED AREA IDENTIFIES THE
GROUNDWATER PROHIBITION AREA

COPIES OF THE REPORT ARE AVAILABLE AT \$10.00 PER COPY.

[illegible]