

Water Conservation Ordinance

An ordinance to provide for the conservation of the natural water supply of water within Madison Charter Township primarily furnished through private wells for domestic, agricultural, commercial, industrial and recreational uses therein; to regulate the use and removal of such water from the township: to establish standards for such use and/or removal; to protect the health, safety, general welfare and economic welfare of citizens, residents, property owners, farmers, businesses and industries within the township, dependent upon an adequate natural water supply; to provide for the enforcement of such regulations; and to repeal any ordinances or parts of ordinances in conflict therewith.

THE CHARTER TOWNSHIP OF MADISON ORDAINS:

Section 1. Title

This ordinance shall hereafter be known and cited as “Madison Township Water Conservation Ordinance” and will be referred to herein as “this ordinance”.

Section 2. Purpose

Since water supply for domestic, agricultural, commercial and industrial uses within the township is primarily dependent upon private wells which have substantially proven to be satisfactory for such purposes. it is the object and purpose of the within ordinance to protect such water supply for such uses and accordingly, the health, safety and general welfare of the inhabitants, businesses, farms and industrial activities within the township through limits and regulations affecting removal of such water supply from the township or excessive use thereof by any separate operator or consumer.

Section 3. Definitions

- 3.1 The word “persons” whenever used herein shall be held and construed to mean and include one or more persons, firms, co-partnerships, corporations (private or public) and all associations of natural persons Incorporated or unincorporated, whether acting separately, collectively or by servant, agent or employee
- 3.2 The term “township board” whenever used herein shall mean the Madison Charter Township Board or such committee or commission to whom the Madison Township Board’s authority has been duly and properly delegated.
- 3.3 The term “water pumping facilities or equipment” when used herein shall mean and

include pumps, pipes, wells, transmission lines and any other equipment for the extraction from the subterranean aquifer and the transmission of water. When such facilities or equipment are part of one system or are in any manner combined with other systems, such terms shall mean the total system or network of pumps, pipes, transmission lines and other equipment.

Section 4. Regulations

- 4.1 No person shall construct, erect, put down, install or maintain water pumping facilities or equipment for the purpose of obtaining water for other than use on the premises upon which such water pumping facilities or equipment are located within the Charter Township of Madison except as hereinafter provided.
- 4.2 Notwithstanding anything herein to the contrary, the provisions of this ordinance shall not be applicable to any public water system established and operated or approved by the Madison Charter Township Board for its residents, farms, businesses and industries and which water supply system is readily available to such residents, farms, businesses and industries which might be adversely affected by the depletion of any subterranean water supply for such public water system
- 4.3 No transmission lines for any water system within the township (either public or private) shall be constructed along or across any public roads or public places of the township without the prior consent of Madison Charter Township Board pursuant to Section 29 of Article VII of the Michigan Constitution.

Section 5. Waiver from General Prohibition

- 5.1 Any person seeking the use of water from a premises other than the premises from which such water is obtained may apply to the Township Board for a waiver from the general prohibition against such use.
- 5.2 The township board shall have the authority to grant such waiver upon a showing that:
 - a. the contemplated use of water for which the waiver is sought is necessary
 - b. water cannot be reasonably furnished from a different source or sources
 - c. the granting of the waiver will not unreasonably lower or deplete the head, pressure or supply of water of any other well or spring, dependent upon the same head, vein or subterranean aquifer.
- 5.3 The burden of proof to support the granting of any waiver of compliance with the within ordinance shall be upon the applicant for such waiver. The applicant must provide to the Township sufficient data, in a form acceptable to the township board, disclosing maximum pumping capacity of the water pumping facilities or equipment and the nature of the subterranean water supply as evidenced by professional

geological surveys and estimates.

- 5.4 In the event the township board determines that additional proof is needed on any of the issues relevant to a waiver request, the township board shall be authorized to retain any experts necessary to assist in its deliberations and cost of such experts shall be paid for by the applicant. In such circumstances the applicant shall be required to place in escrow with the Township an amount reasonably determined by the township board to cover the cost of such experts. Any money placed in escrow and not used for expert expenses shall be returned to the applicant and any shortfall in the escrow account shall forthwith be paid for by the applicant.
- 5.5 In granting a waiver from the general prohibition herein established, the township board shall have the right to:
- a. place limitation on the amount of water allowed to be pumped
 - b. specify the type and size of water pumping facilities or equipment allowed to be constructed, erected, put down, installed
 - c. establish and enforce rules and regulations regarding the maintenance of the water pumping facility.
- 5.6 The township board or its authorized agents shall have the right to enter upon the subject premises where such facilities or equipment are to be located to make such inspections, tests, or metering as it deems necessary both during the waiver application process and after the granting of any such waiver in order to determine compliance with the waiver permit.

Section 6. Violation Deemed a Nuisance per se

The obtaining of water through the use of water pumping facilities or equipment within Madison Charter Township other than for the uses and subject to the limitations set forth herein is hereby determined to be unreasonable and unnecessary and a nuisance per se.

Section 7. Enforcement

- 7.1 Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of \$1,000 per day that any such violation continues to exist.
- 7.2 Additionally, any violator shall be liable for the costs of enforcement of the within ordinance which includes all expenses, direct or indirect, to which Madison Charter Township has expended in connection with such municipal civil infraction. In no case, however, shall costs of less than \$300 be ordered.

7.3 As a cumulative remedy any person who violates any provision of this Ordinance or any rule or regulation adopted or issued in pursuance thereof, may be made a party defendant in a suit in the Circuit Court for the County of Lenawee; the Charter Township of Madison shall have the power, through its attorneys, to request that said Circuit Court issue a mandatory injunction restraining order or other appropriate remedy to compel compliance with the within ordinance.

Section 8. Validity

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the parts so declared to be invalid.

Section 9. Repeal

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 10. Effective Date

This Ordinance shall become effective upon publication following its adoption by the Madison Charter Township Board.