

City of Fennville Ordinance 2025-07

Ordinance to Provide for and Regulate the Protection of Groundwater Resources in the City of Fennville

At a regular meeting of the City Commission for the City of Fennville, Michigan, held at City Hall in Fennville, Michigan, on the 4th day of August, 2025.

Present: Sliter, C. Lopez, Machan, Jermos, Langston

Absent: D. Lopez, Boove

The following Ordinance was offered by Commissioner Machan, and supported by Commissioner Sliter.

WHEREAS, The City of Fennville Code of Ordinances does not specifically regulate the protection of groundwater resources in the City, and;

WHEREAS, the City of Fennville recognizes the continuing importance of clean and accessible groundwater resources to the functioning of the City's drinking water treatment and distribution system:

THEREFORE, the City of Fennville ordains:

CITY OF FENNVILLE
ORDINANCE 2025-07

GROUNDWATER PROTECTION ORDINANCE

AN ORDINANCE TO PROVIDE FOR AND REGULATE THE PROTECTION OF GROUNDWATER RESOURCES IN THE CITY OF FENNVILLE

SECTION 1. Purpose.

The City of Fennville has determined that:

1. Certain groundwater underlying areas, including The City of Fennville, currently is, or may be in the future, the sole source of the City's drinking water supply.
2. Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the City and surrounding area.
3. Spills and discharges of hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, The City of Fennville has enacted a groundwater protection ordinance to:

1. Protect existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the City.
2. Preserve the natural resources of the City and the surrounding area.

SECTION 2. Definitions.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED OPERATIONS: Any property that is unoccupied for at least thirty (30) days and to which one or more of the following applies:

- a. Is open to casual entry;
- b. Has one or more windows boarded;
- c. Has utilities disconnected;
- d. Is unsafe for occupancy or the general public, or is a visual blight adversely affecting the general welfare of the area;
- e. Is the subject of indebtedness to the City for more than one year.

Abandoned operations do not include a property that is actively listed by a licensed real estate broker.

ABOVEGROUND STORAGE TANK: A tank or combination of tanks, including the pipes that are connected to the tank or tanks or ancillary equipment containment systems, if any, which is, was, or may have been used to contain an accumulation of liquids and which has less than 10% of its volume, including the volume of the underground pipes that are connected to the tank or tanks, beneath the surface of the ground, as defined in Storage and Handling of Flammable and Combustible Liquids Rules, June 30, 1992.

AQUIFER: A geological formation, group of formations, or part of a formation capable of storing and yielding a significant amount of groundwater to wells and springs.

CHEMICAL ABSTRACT SERVICE (CAS) NUMBER: This is a unique number for every chemical established by a Columbus Ohio organization which indexes information published in "Chemical Abstracts" by the American Chemical Society.

CONTAMINATION: An impairment of water quality by hazardous substances, whether or not it affects the potential or intended beneficial use of water.

HAZARDOUS SUBSTANCE: A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, any of the following which are stored or generated in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) per month, and which require site plan review under provisions of this ordinance.

- a. Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, Public Law 96.510, 94 State. 2767;
- b. Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- c. Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- d. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- e. Polluting Material as defined in Part 5 rules promulgated pursuant to Part 31 of the of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- f. Substances for which there is a safety data sheet (SDS), as established by the United States Occupational Safety and Health Administration, and the SDS cites possible health hazards for said substances;
- g. Used oil;
- h. Raw sanitary sewage;
- i. Biohazards; and
- j. Radiological materials.

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY (EGLE): State agency responsible for enforcement of Michigan's environmental protection laws.

POLLUTION INCIDENT PREVENTION PLAN (PIPP): A PIPP includes a polluting material inventory, a site diagram depicting the locations of the polluting materials, emergency response procedures, and secondary-containment details. Sites are subject to Michigan's Part 5 Rules if they store oils and other polluting materials above established threshold management quantities (TMQs), which are:

- a. Salt in solid form at quantities of five (5) tons (10,000 pounds) or more.
- b. Salt in liquid form at 1,000 gallons or more.

- c. Petroleum products in an AST or container with a capacity of 660 gallons or greater or an aggregate aboveground storage capacity of 1,320 gallons.
- d. All other polluting materials specified in Part 5 that are used, stored, or otherwise managed in a discrete outdoor location, with a total storage quantity of 200 kilograms (kg) (440 pounds) or more.
- e. All other polluting materials specified in Part 5 that are used, stored, or otherwise maintained at a discrete indoor location, with a total storage quantity of 1,000 kg (2,200 pounds) or more.

PROPERTY OWNER: A person, public corporation, authority, or a political subdivision of the State or a combination of any of them, that holds an ownership interest in land, whether recorded or not. An ownership interest means ownership by one person or by different private entities, if the land is owned in joint interest or by members of the same immediate family.

PROPERLY PLUGGED ABANDONED WELL: A well that has been closed in accordance with regulations and procedures of Department of Environment, Great Lakes and Energy (EGLE) and the local Health Department. A properly plugged abandoned well requires a permit to be brought back into service.

SECONDARY CONTAINMENT: A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

SPILL PREVENTION CONTROL AND COUNTERMEASURE (SPCC) PLAN: As detailed in 40 CFR Part 112, sites are subject to the SPCC rules if (1) they store either more than 1,320 gallons of petroleum products aboveground and (2) they present a reasonable risk to a navigable water of the United States (including via storm water and groundwater). An SPCC Plan details site oil storage, spill potential, and emergency response and notification procedures. The SPCC Plan is required to be certified by a registered Professional Engineer.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): As detailed in 40 CFR Part 122, sites that are required to have a storm water permit are also required to have SWPPPs that detail hazardous substance exposed to storm water and controls to prevent releases.

UNDERGROUND STORAGE TANK: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 211 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

UNPLUGGED ABANDONED WELL: A well which has not been used for one year or more.

USED OIL: Any oil that had been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities.

WELL: As defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the public Acts of 1978, as amended, and rules; or a permanent or temporary opening in the surface of the earth for the purpose of removing water, or testing water quality, or measuring water characteristics, or measuring liquid recharge, or measuring liquid levels, or oil and gas exploration or production, or waste disposal, or dewatering purposes; or geothermal heat exchange purposes, or a cistern of a depth of 4 feet or more and with a top width of 12 inches or more.

WELLHEAD PROTECTION AREA (WHPA): The area which has been approved by EGLE in accordance with the State of Michigan Wellhead Protection Program, which represents the surface and subsurface area surrounding a water well or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well or well field within a ten-year time of travel. Where the line defining the Wellhead Protection Area intersects a property, the entire parcel shall be subject to this ordinance.

Section 3. Applicability.

USES SUBJECT TO SITE PLAN REVIEW: Except as provided in Section 00.208, "EXEMPTIONS AND WAIVERS", this chapter applies to all building permit request involving hazardous substances in the Wellhead Protection Area.

Section 4. Prohibitions Within Wellhead Protection Area.

For any parcel land that has a portion within the Wellhead Protection Area, the following are prohibited at any location on the parcel:

- a. Operations of a scrap and recycling yard.
- b. Operations of a State of Michigan Type II or Type III solid waste landfill.
- c. Use oil, waste oil, or similar liquid petroleum-type products for dust suppression.
- d. Unplugged abandoned wells.
- e. Drill for natural gas or petroleum, whether for exploration, production or otherwise.
- f. Improper use, storage and disposal of hazardous substances.
- g. Wells used for irrigation.

Section 5. Site Plan Review.

SITE PLAN REVIEW PROCEDURES:

Applications for projects under this section shall include the following information in addition to what may be required under the zoning ordinance

- a. Existing and proposed deed restrictions, if any.
- b. Location and outline of all existing septic tanks and drain fields.
- c. The location of any floor drains in proposed structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.
- d. The location and elevations of existing water courses and water bodies, including county drains and manmade surface drainage ways, floodplains, and regulated wetlands.
- e. Location of, public and private drinking water wells, monitoring wells, irrigation wells, test wells, wells used for industrial processes or wells that have no identified use.
- f. Inventory of hazardous substances to be stored, used or generated on-site, presented in a format acceptable to the Zoning Administrator and Fire Department (include CAS numbers).
- g. Description and drawings showing size and location for any proposed aboveground and underground storage tanks, piping lines and dispensers.
- h. Descriptions of type of operations proposed for the project and drawings showing size, location, and description of any proposed interior or exterior areas of structures for storing, using, loading or unloading of hazardous substances.
- i. Reported delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of cleanup or closure.
- j. Completion of the EGLE Environmental Permits Checklist.

Section 6. Criteria for Review.

Criteria for Review will include:

- a. The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands.
- b. If required by state or federal law, properties using hazardous substances are required to have a Spill Prevention Control and Countermeasure (SPCC) Plan, a Pollution Incident Prevention Plan (PIPP), and/or a Storm Water Pollution Prevention Plan (SWPPP).
- b. General-purpose floor drains shall be connected to a public sewer system or an on-site holding tank (not a septic system) in accordance with state, county and municipal requirements (including Industrial Pretreatment criteria), unless a groundwater discharge permit has been obtained from the Michigan Department of Environmental Quality. General-purpose floor drains that discharge to groundwater are generally prohibited.
- c. Sites that at any time use, store or generate hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- d. Hazardous substances stored on the site before, during, or after site construction, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any individual storage container volume of over 40 gallons or total container volumes exceeding 100 gallons that contains hazardous substances shall have secondary containment.

- e. Secondary containment facilities shall be provided for aboveground storage of hazardous substances in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly into a sewer system, or to the waters of the State (including groundwater).
- f. Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of EGLE and the County Health Department.
- g. Geothermal Systems, if any.
- h. Completion of the EGLE Environmental Permits Checklist.

Section 7. Professional Review of Proposed Development.

Fees in Escrow for Professional Reviews: Any application for site plan approval under this Ordinance above the following threshold may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required by the Zoning Administrator unless waived by the Planning Commission. Waiver shall be based on a written conclusion that there is no substantial information or analysis benefit to accrue as a result of the application of this Section. An escrow fee may be requested to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, including alterations to EGLE approved delineations of the City's Wellhead Protection Area, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

- a. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the City values to review the proposed application and/or site plan of an applicant. Professional review will result in a report to the City indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems that may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the City and a copy of the statement of expenses for the professional services rendered.
- b. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Building Official. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- c. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by the City in response to the applicant's request.
- d. Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

Section 8. Exemptions and Waivers.

A limited exclusion from this chapter is hereby authorized as follows:

- a. The site plan review criteria do not apply to hazardous substances packaged for personal or household use or present in the same form and concentration as a product packaged for use by the general public.
- b. The site plan review requirements of Section 5 do not apply to products held in containers with a volume of less than 220 pounds or 25 gallons and packaged for retail use.
- c. The total excluded substances containing hazardous substances may not exceed the lesser of two hundred (200) gallons or one thousand (1000) pounds at any time.
- d. Substances in parked or stopped vehicle in transit, provided the vehicle is stopped or parked for less than 72 hours.
- e. Substances, such as gasoline or oil, in operable motor vehicles or boats if used solely for the operation of the vehicle, but not the tanker portion of a tank truck.
- f. Pressurized gases in storage tanks.
- g. All Parcels outside the WHPA.

Section 9. Abandoned Operations.

This section applies to residences, businesses or other operations. Those who own or control abandoned operations shall do the following:

- a. Within seven (7) days of becoming an abandoned operation, take such steps as necessary to secure the site such as water, wind and ice or vandals and all other persons cannot gain access to the hazardous substances.
- b. Within thirty (30) days of becoming inactive, provide to the code official and the Fire Department a document that identifies the site, the date of inactivity, the hazardous substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site.
- c. Within sixty (60) days of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting.

Section 10. Enforcement.

1. Whenever the Zoning Administrator determines that a person has violated a provision of this Ordinance, the Zoning Administrator may order compliance by issuing a written Notice of Violation to the responsible person/facility.
2. The notice shall be directed to the owner or party in interest of the building in whose name the property appears on the last local tax assessment records of the City.
3. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline by which such remediation or restoration must be completed. Said notice shall further advise that, should the responsible party fail to remediate or restore within the established deadline, the work may be done by the City, with the expense thereof charged to the property owner and possibly assessed as a lien against the property.
4. All notices required by Sec. 10 shall be in writing and shall be served upon the person whom they are directed personally or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the noticed. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure at least 10 days prior to the hearing date.

Section 11. Exceptional/Alternative Means of Compliance.

If an owner of property within the City believes the requirements of the Ground Water Protection Ordinance pose an unreasonable burden, they may seek an exception from the strict enforcement of the ordinance. This shall be done by submitting in writing to the City alternative means that comply with the intent of the provisions of the ordinance. The material, method or work offered must be, for the purpose intended, at least the equivalent of that prescribed in this Ordinance in effectiveness for the protection of ground water resources.

Section 12. Abatement/Remedial Activities by the City.

1. The City is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the City determines a violation of this Ordinance has occurred and that the responsible party cannot or will not correct the violation in a timely manner, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses thus incurred by the City. A lien may be placed on the property for the reimbursement of all reasonable expenses.
2. If the City desires the responsible party to reimburse it for reasonable abatement activity expenses, the City shall, within ninety (90) days of the completion of said activities, mail to that person a Notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the City, said person may file, within the same thirty (30) day period, a written objection so stating. The City shall, within thirty (30) days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the City determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within thirty (30) days of receipt of that determination. If the amount due

is not paid, the City may cause the charges to become a special assessment against the property and shall constitute a lien on the property.

Section 13. Injunctive Relief.

If a person has violated or continues to violate the provisions of this Ordinance, the City may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations, or compelling the person to perform necessary abatement or remediation.

Section 14. Violations Deemed a Civil Infraction.

Any violation of this Ordinance is hereby declared to be a Civil Infraction.

Section 15. Penalties and Costs.

Any building or structure which is erected, constructed, moved, replaced, reconstructed, raised, extended, enlarged, altered, maintained or used or any use of a lot or land which is begun, maintained or changed in violation of any term provisions of this Ordinance is hereby declared to be a nuisance per se. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any term or provision of this Ordinance, or any amendment thereof, shall be responsible for a municipal civil infraction subject to enforcement procedures as set forth in the Municipal Civil Infractions Ordinance adopted by the City, and a fine of fifty (\$50.00) dollars, plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense.

Increased civil fines may be imposed for repeated violations of the Ordinance, a repeat violation means a second or subsequent civil infraction violation committed by a person within any twelve (12) month period and for which a person admits responsibility or is determined to be responsible. The increased civil fines for repeat violations shall be as follows:

1. The fine for any offense which is a first repeat offense shall be two hundred fifty (\$250.00) dollars, plus costs and other sanctions;
2. The fine for any offense, which is a second, repeat offense or any subsequent repeat offense shall be five hundred (\$500.00) dollars, plus costs and other sanctions.

The Zoning Administrator, Police Department, members of any other law enforcement agency with jurisdiction in the City, City Clerk, and any other individuals who may from time to time be appointed by resolution of the City Commission, are hereby designated as the authorized City Officials to issue municipal civil infraction citations as provided by the Municipal Civil Infractions Ordinance (Chapter 35) adopted by the City.

Section 16. Authority to Commence Legal Action.

The Zoning Administrator, Police Department, members of any other law enforcement agency with jurisdiction in the City, City Clerk, and any other individuals who may from time to time be appointed by resolution of the City Commission, are hereby designated as the authorized City Officials to issue municipal civil infraction citations as provided by the Municipal Civil Infractions Ordinance adopted by the City.

Section 17. Remedies not Exclusive.

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the City to seek cumulative remedies.

Section 18. Severability.

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

Section 19. Effective Date.

This Ordinance shall be effective seven days after publication in the newspaper of local circulation.

Section 20. Administrative Liability.

No officer, agent, employee, or member of the Planning Commission, City Commission, or Zoning Board of Appeals shall be held personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

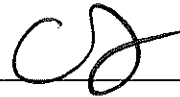
INTRODUCED by the City Commission of the City of Fennville on the 21st day of July, 2024.

ADOPTED by the City Commission of the City of Fennville on the 4th day August, 2025.

RECORD OF VOTE:

YES: Sliter, Machon, Samras, Langston, Lopez
NO: _____

ORDINANCE DECLARED ADOPTED

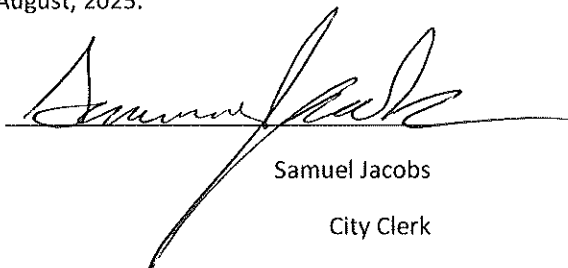


Carlos Lopez
Mayor

CERTIFICATE

I, the undersigned, the duly qualified Clerk of the City of Fennville, Allegan County, State of Michigan, do hereby certify that the foregoing is a true and complete copy of proceedings taken at a regular meeting of the Commission of the City of Fennville, held on the 4th day of August, 2025. The original of which is on file in my office. Public notice of said meeting was given pursuant to and in full compliance with Act 267, Public Acts of 1876, as amended.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 4th day of August, 2025.



Samuel Jacobs
City Clerk

