

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 07/22/2019**

The meeting was called to order at 7:00 p.m. by Mayor Krueger in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Invocation and Pledge of Allegiance.

Councilmembers Present: Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston.

Councilmembers Absent: Root.

Staff Present: City Manager Adam Zettel, Clerk Connie Eskew.

Others Present: Lania Rocha, Bob Plumb, Steve Shumaker, Betty Binder, Erik Jamison, Steve Long, John Wilson, Nate Henry, Metro PD Chief Bade, Chris Stritmatter, Jason Keene, Brett Jory, Marcia Pavkovich, Mark Miltich, Larry Gawthrop, Julia Assolin, Patricia McLeod.

**EXCUSE COUNCILMEMBER ROOT**

**Resolution No. 190722-01**

**(Carried)**

Motion by Councilmember Cramer  
Second by Councilmember Farmer

**I Move** the Swartz Creek City Council excuse Councilmember Root.

YES: Unanimous Voice Vote.  
NO: None. Motion declared carried.

**APPROVAL OF MINUTES**

**Resolution No. 190722-02**

**(Carried)**

Motion by Councilmember Cramer  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday July 8, 2019 to be circulated and placed on file.

YES Gilbert, Hicks, Krueger, Pinkston, Cramer, Farmer.  
NO: None. Motion Declared Carried.

## **APPROVAL OF AGENDA**

### **Resolution No. 190722-03**

**(Carried)**

Motion by Councilmember Farmer  
Second by Councilmember Hicks

**I Move** the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of July 22, 2019, to be circulated and placed on file.

YES: Hicks, Krueger, Pinkston, Cramer, Farmer, Gilbert.  
NO: None. Motion Declared Carried.

## **CITY MANAGER'S REPORT**

### **Resolution No. 190722-04**

**(Carried)**

Motion by Councilmember Hicks  
Second by Councilmember Cramer

**I Move** the Swartz Creek City Council accept the City Manager's Report of July 22, 2019, including reports and communications to be circulated and placed on file.

YES: Krueger, Pinkston, Cramer, Farmer, Gilbert, Hicks.  
NO: None. Motion Declared Carried.

## **MEETING OPENED TO THE PUBLIC:**

Betty Binder, 8079 Bristol Road, requested an updated recycle brochure be made available to residents.

Mark Miltich, 5272 Birchcrest, opposed to the Brewer townhome sale.

Julia Assolin, 6287 W. Maple Ave, opposed to the Brewer townhome sale, loves the green space.

Erik Jamison, 5015 & 5017 Holland, commented on his support for the townhome project.

Steve Shumaker, 7446 Country Meadow, commented on the past meetings on this project. He thinks there is already a lot of condos in the city.

Jason Keen, 5260 Birchcrest, doesn't feel like the condo project is the best use of the space. He feels a commercial space with residential above (mix use) would be a better use for this space.

Charlie Burnett, 6329 Augusta, opposes the condo project. He feels the location of the project will ruin the Veterans Memorial.

**COUNCIL BUSINESS:**

**MOTT COMMUNITY COLLEGE**

**PRESENTATION**

Larry Gawthrop, Chief Financial Officer, updated on the college and reviewed the new strategic plan.

**RESOLUTION TO APPROVE A COMMERCIAL LEASE AGREEMENT WITH LASERS FLOWERS AND GIFTS, LLC, LOCATED AT 8002 MILLER ROAD**

**Resolution No. 190722-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Cramer

**WHEREAS**, the city has acquired a commercial structure located at 8002 Miller Road, Parcel ID Number 58-35-576-049, that is undergoing repairs and improvement; and

**WHEREAS**, the structure is occupied by an existing business that leases the bottom floor for retail space; and

**WHEREAS**, the upper floor will soon be ready for residential occupancy; and

**WHEREAS**, the retail tenant intends to continue to occupy the retail space, seeks to occupy the residential space, and purchase the property after all improvements are finalized; and

**WHEREAS**, the city recognizes that investment dollars may be recovered from the sale of this property, but additional proceeds may not be recovered per in-place tax foreclosure regulations.

**NOW, BE IT RESOLVED**, the Swartz Creek City Council hereby approves and restates the lease agreement with Lasers Flowers and Gifts, LLC, as included in the city council packet of July 22, 2019.

**BE IF FURTHER RESOLVED**, the City Council directs the Mayor to execute the agreement on behalf of the city and further directs the Treasurer to account for any proceeds from rents collected along with any future sale proceeds of the property.

Discussion Ensued.

YES: Pinkston, Cramer, Farmer, Gilbert, Hicks, Krueger.  
NO: None. Motion Declared Carried.

**RESOLUTION TO AUTHORIZE BIKES ON THE BRICKS, INC TO MAKE APPLICATION TO THE GENESEE COUNTY ROAD COMMISSION TO USE RIGHT-OF-WAY IN SWARTZ CREEK ON SEPTEMBER 7, 2019**

**Resolution No. 190722-06**

**(Carried)**

Motion by Mayor Pro Tem Pinkston  
Second by Councilmember Cramer

**WHEREAS**, the City owns, operates, and maintains public streets and the corresponding right-of-ways; and

**WHEREAS**, the Bikes on the Bricks, Inc group is proposing a police escorted ride through Genesee County, including numerous local municipalities, on September 7, 2019; and

**WHEREAS**, the Genesee County Road Commission is coordinating the route and permit requirements.

**NOW, BE IT RESOLVED**, the Bikes on the Bricks, Inc. is hereby authorized to make Application to the Genesee County Road Commission on behalf of the City of Swartz Creek in the county of Genesee, Michigan, for the necessary permits to allow a police escorted ride on Elms Road on September 7, 2019 at approximately 10am to 1pm within the right of way of the City of Swartz Creek City and that the City of Swartz Creek will faithfully fulfill all permit requirements, and will indemnify and save harmless all persons from claims of every kind arising out of operations authorized by such permit(s) as is (are) issued.

**BE IF FURTHER RESOLVED**, the City Council otherwise permits the Bikes on the Bricks, Inc. group to conduct the police escorted ride as indicated above under the direction of the Chief of Police and Street Administrator.

Discussion Ensued.

YES: Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston.

NO: None. Motion Declared Carried.

**RESOLUTION TO AFFIRM SALE, INCLUDING PURCHASE AND DEVELOPMENT AGREEMENT, FOR PROPERTY OWNED BY THE CITY**

**Resolution No. 190722-07**

**(Carried)**

Motion by Councilmember Cramer  
Second by Councilmember Farmer

**WHEREAS**, the city owns two lots of the Supervisors Plat located on the northwest corner of Morrish Road and Paul Fortino Drive, PID's 58-35-576-001 & 58-35-576-002; and

**WHEREAS**, the community has been engaged in finding a preferred option for the permanent use of these parcels; and

**WHEREAS**, the Downtown Development Authority, in working with the public and other city commissions and staff, finds that downtown housing is a feasible use that would further the vision of a small community & vibrant downtown; and

**WHEREAS**, the DDA conceived and planned for the use of the site with the help of a professional architect and subsequently invited developers to proceed with partnering in the development of the site; and

**WHEREAS**, RBF Construction presented themselves as the only local developer with capacity and a desire to meet the expectations of the DDA; and

**WHEREAS**, the DDA and RBF then jointly proceeded to detail site plan and architectural renderings, eventually recommending approval to the planning commission in early 2019; and

**WHEREAS**, RBF then submitted a site plan that was approved by the city on June 10, 2019; and

**WHEREAS**, the city desires to transfer the property to RBF Construction, with conditions, so development of the site may commence; and

**WHEREAS**, the city has been working with RBF on determining the total project scope, available incentives, and cost as competing terms in finalizing a sale value; and

**WHEREAS**, the city approved a draft purchase agreement for a warranty deed sale on June 10, 2019; and

**WHEREAS**, the purchase agreement has been made available for public inspection for over 30 days, in accordance with the City's Land Sale Policy of April 28, 2014.; and

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council affirms the sale of the parcels and directs the Mayor to complete and execute the purchase agreement as included in the July 22, 2019 city council packet.

**BE IT FURTHER RESOLVED**, the Mayor is authorized to execute any and all other instruments and forms related to the sale as deemed necessary and advisable by the city attorney and closing title company.

Discussion Ensued.

BREAK 8:35-8:49 p.m.

Discussion Ensued.

YES: Cramer, Farmer, Hicks, Krueger, Pinkston.  
NO: Gilbert. Motion Declared Carried.

**RESOLUTION TO APPROVE AN ORDINANCE # 441 TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK BY ADDING SECTIONS 33 THROUGH 46 TO CHAPTER 19, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK TO REGULATE AND RESTRICT THE USE OF GROUNDWATER IN CERTAIN AREAS OF THE CITY OF SWARTZ CREEK DUE TO THE PRESENCE OF GROUNDWATER CONTAMINATION RESULTING FROM A RELEASE PURSUANT TO Part 201, ENVIRONMENTAL REMEDIATION, or PART 213, LEAKING UNDERGROUND STORAGE TANKS, OF THE NATURAL RESOURCE AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451 AS AMENDED.**

**Resolution No. 190722-08**

**(Carried)**

Motion by Councilmember Farmer  
Second by Councilmember Cramer

**WHEREAS**, the City of Swartz Creek acquired 5012 Holland Drive (“Property”) from Genesee County and subsequently removed the known fuel tanks and above grade structures; and

**WHEREAS**, ExxonMobil desired to proceed with soil removal and site restoration, making the site available for reuse; and

**WHEREAS**, the City of Swartz Creek (“City”), ExxonMobil Oil Corporation (“ExxonMobil”), and Groundwater & Environmental Services, Inc. (“Consultant”) entered into a Limited Site License Agreement (“Agreement”) for the purpose of granting a limited license to enter upon certain described property upon the terms and conditions specified in the Agreement on April 10, 2017; and

**WHEREAS**, the site was substantially remediated as a result of that agreement, with the understanding that other conditions, including a prohibition on area wells, would apply; and

**WHEREAS**, the Swartz Creek City Council further directed staff to proceed with the preparation of the groundwater restriction ordinance for review by the City Council; and

**WHEREAS**, ExxonMobil and their consultants further engaged in subsurface exploratory work, well audits, and public outreach, including a public hearing and presentation on April 23, 2019 related to the creation of said ordinance; and

**WHEREAS**, the ordinance is ready for adoption.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK BY ADDING SECTIONS 33 THROUGH 46 TO CHAPTER 19, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK TO REGULATE AND RESTRICT THE USE OF GROUNDWATER IN CERTAIN AREAS OF THE CITY OF SWARTZ CREEK DUE TO THE PRESENCE OF GROUNDWATER CONTAMINATION RESULTING FROM A RELEASE PURSUANT TO Part 201, ENVIRONMENTAL REMEDIATION, or PART 213, LEAKING UNDERGROUND STORAGE TANKS, OF THE NATURAL RESOURCE AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451 AS AMENDED.**

**THE CITY OF SWARTZ CREEK ORDAINS:**

**SECTION 1. AMENDMENT.** The Code of Ordinances of the City of Swartz Creek (City), Michigan is amended by adding Sections 33 through 46 in Chapter 19, Article II, to read as follows:

**SECTION 2. FINDINGS.** The City Council finds that the use of certain wells and groundwater from such wells for human consumption or other purposes may constitute a threat to groundwater resources or a public health risk and endanger the safety of the residents of the City. The identified public health risk affects premises that are located on or in the vicinity of sites that are the source or location of contaminated groundwater, or where there is a known and identified threat of contaminated groundwater from a release. The City Council has determined that it is in the best interests of the public health, safety and welfare to prohibit certain uses of groundwater from wells at properties located in the vicinity of such contaminated sites in order to minimize the public health and welfare risk and protect the City's residents.

**SECTION 3. DEFINITIONS.** For the purposes of this Ordinance, the words and phrases listed below shall have the following meanings:

- A. Abandoned Water Well means an abandoned water well as defined by R 325.1601(1) of the Groundwater Quality Control Rules, Mich. Admin. Code R 325.1601 et seq.
- B. Affected Parcel means a parcel of property any part of which is located within a restricted zone.
- C. Applicant means a person who applies for the establishment of a restricted zone and accompanying regulations pursuant to this Chapter.

- D. "Contamination" means groundwater in which there is present concentrations of hazardous substances that exceed the residential drinking water criteria established by the EGLE in operational memoranda or rules promulgated pursuant to Part 201, Environmental Remediation (MCL 324.20101, et seq.), of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended, MCL 324.101, et seq., and includes "contaminant" as defined by R 325.1602(5) of the Groundwater Quality Control Rules, Mich. Admin. Code R 325.1601 et seq.
- E. Groundwater means underground water within the zone of saturation.
- F. Influential Well means a Well outside or within a Restricted Zone that, based on reliable hydrogeological data, has the potential to affect the horizontal or vertical migration of Contamination within the Restricted Zone. Reliable hydrogeologic data includes, but is not limited to, hydrogeologic evaluations including pump tests, an analysis of the degree of protection from vertical migration of contamination through geologic barriers, and groundwater modeling. EGLE means the Michigan Department of Environment, Great Lakes, and Energy or its successor agency.
- G. Person means any individual, co-partnership, corporation, association, club, joint venture, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- H. Proof of No Influence means groundwater data or other documentation or evidence demonstrating that a Well in a Restricted Zone does not have the potential to affect the horizontal or vertical migration of Contaminated Groundwater within a Restricted Zone, or is otherwise a threat to groundwater resources. Documentation or evidence necessary to demonstrate Proof of No Influence may include, but is not limited to: hydrogeologic evaluations including pump tests; an analysis of the degree of protection from horizontal or vertical migration of contamination within in aquifer or through geologic barriers; and groundwater modeling.
- I. Release means a " release" as defined in Part 201, Environmental Remediation (MCL 324.20101, et seq.), or Part 213, Leaking Underground Storage Tanks (MCL 324.21301a, et seq.) of the Natural Resources and Environmental Protection Act, as amended (MCL 324.101, et seq.).
- J. Restricted Zone means an area or areas described within (Section 4 and 5) of this Ordinance for which the prohibition of Wells and the restriction on the use of groundwater applies. The Restricted Zone includes parcels of land that are legally described in this Ordinance, either through passage or amendment to this Ordinance, if provided for. The Restricted Zone includes not only the area of known groundwater contamination but also a surrounding buffer zone where contamination may be or migrate to.



- K. Well means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well, waste disposal well, or a well used temporarily for dewatering purposes during construction, as defined in Part 127, MCL 333.12701(d), groundwater monitoring wells or wells used for remediating contaminated groundwater that are approved by the EGLE or United States Environmental Protection Agency (US EPA), and also includes all of the following:
1. "Water Supply Well" means a well that is used to provide potable water for drinking or domestic purposes.
  2. "Irrigation Well" means a well that is used to provide water for plants, livestock, or other agricultural purposes.
  3. "Heat Exchange Well" means a well for the purpose of utilizing the geothermal properties of earth formations for heating or air conditioning.
  4. "Industrial Well" means a well that is used to supply water for industrial purposes, fire protection, or similar nonpotable uses.

#### **SECTION 4. RESTRICTED ZONES.**

A. The following described areas in the City shall be Restricted Zones as defined under this Ordinance. The Restricted Zones may be referred to by reference to the names provided in the caption preceding their descriptions:

1. General Name and Description

An area described as commencing from the southeast corner of the Miller Road and Hayes Street intersection, then south along the east right of way line for Hayes Street to Ingalls Street, then easterly along the north right of way line for Ingalls Street to Morrish Road, then northerly along the west right of way line for Morrish Road until Miller Road; and then west along the south right of way line for Miller Road to the point of commencement at Hayes Street.

2. A scaled map illustrating the boundaries of the restricted zone is attached as "Exhibit IA." A listing of the addresses and parcel numbers of each Affected Parcel within the Restricted Zone is contained within the attached "Exhibit IB." For sites regulated under Part 213, the exhibit must also include the legal description for each Affected Parcel within the Restricted Zone.

3. The application and all supporting documentation shall be maintained by the City Clerk.

B. Except as provided in Section 8 of this Ordinance and after the effective date of this Ordinance, no person or legal entity shall install or allow or permit or provide for the installation or utilization of a well on any Affected Parcel on which the person or legal entity has an ownership interest, or lessee or tenant interest, or control within the Water Well Restricted Zone. Affected Parcel within the Restricted Zone shall be serviced only by public water supply as described in Chapter 19, Article II of the Code of Ordinances.

## **SECTION 5. ADDITION, REPEAL OR AMENDMENT OF RESTRICTED ZONES.**

An Applicant, Owner, or an entity involved in performing remedial actions or corrective actions in order to seek approval of a Response Activity Plan or a No Further Action Report under Part 201; a Final Assessment Report or Closure Report under Part 213; or other interested party may request in writing to the City Manager to add affected parcels to or delete affected parcels from a Restricted Zone, establish an additional Restricted Zone or to otherwise amend or repeal a Restricted Zone. The request must describe the justification for the addition, repeal or amendment of the Restricted Zone and include the EGLE's written and specific concurrence with the requested action.

**SECTION 6. ADDING NEW RESTRICTIVE ZONES.** The City Council may amend this ordinance to add new Restricted Zones in accordance with the following procedure.

A. An Applicant shall first file a request with the City Manager advising the City of the Applicant's interest in establishing a Restricted Zone pursuant to this Ordinance. The notice shall describe the proposed boundaries of the proposed Restricted Zone, the reason for the proposed Restricted Zone, a preliminary map of the proposed Restricted Zone, the proposed time schedule for implementing the proposed Restricted Zone, and the proposed groundwater use restrictions to be applicable within the Restricted Zone. The City Manager will, after notifying the City Council of the notice of intent, respond to the Applicant with a preliminary and non-binding indication of the City's willingness to consider the proposed Restricted Zone. The City Manager or other designated City officer may also be an Applicant for purposes of initiating this procedure.

B. The Applicant shall seek and obtain the EGLE's approval of the proposed Restricted Zone and proposed groundwater use restrictions to be applicable therein prior to filing an application with the City. In order to be considered by the City, the Restricted Zone must minimize or eliminate the need for restrictive covenants on property that is not owned or operated by and is not subject to remediation by a party responsible for the contaminated groundwater. The creation of a Restricted Zone should have the effect of eliminating the need for non-responsible parties to impose environmental restrictive covenants on their properties or otherwise be beneficial to the owners or occupants of property that was not the site of a release.

C. If any Affected Parcels which will be subject to the new Restricted Zone is not already served by City water service, the Applicant shall ensure such service is, if it is possible from an engineering perspective to do so, served with City water service at no cost to the property owners or occupant. The Applicant shall also provide for the abandonment and plugging of conforming, nonconforming or irrigation wells on any Affected Parcel without cost to the owners or occupants of the premises and in compliance with Section 7. In the event an existing irrigation well is abandoned and plugged, at the owner's request, the Applicant shall also bear the cost of connecting the irrigation system to the City water utility and

installing a separate meter and all associated plumbing. Proof of the provision of such service and plugging/abandonment of such wells shall be required or an escrow account shall be established therefor in an amount and form acceptable to the City Council.

D. After the EGLE approves the proposed Restricted Zone as an alternative to restrictive covenants on property on which no release has occurred, an Applicant shall file with the City Manager a formal request to the City including, at a minimum, the following information. The information can be in the form of a proposed remedial action plan, response activity plan, or corrective action plan or other similar document if appropriate cross-references are made for ease of reference.

1. The name, address, telephone number, and e-mail address (Applicant only) of the Applicant, as well as each person having an interest as owner, tenant, easement holder or mortgagee in the real property which is the source or site of the contaminated groundwater, if known.
2. The street address and legal description of the real property which is a source or site of the contaminated groundwater, if known, and the nature of the Applicant's relationship to that property and involvement concerning the contaminated groundwater.
3. The nature and extent of the contaminated groundwater and the contamination causing it, both in summary form in plain English and in detail in technical terms, stating that the release is regulated under Part 201 or Part 213 of the NREPA; the types and concentrations of contaminants; a map or survey showing their current location; a statement of their likely or anticipated impact on groundwater and the nature of the risks presented by the use of the groundwater, as well as the likely or anticipated path of migration if not remediated or corrected and a detailed statement of any plan to remediate, correct, and/or contain the contamination.
4. A detailed map and legal description of the proposed Restricted Zone.
5. The street addresses and general description of all Affected Parcels.
6. The names, addresses (mailing and street), and telephone numbers (if already available) of the Owners of all Affected Parcels.
7. The location, status, and usage characteristics of all existing Groundwater Wells within the proposed Restricted Zone.
8. A detailed statement or description of the proposed regulation or prohibition of the use of existing and future Wells within the Restricted Zone needed to adequately protect the public from the potential health hazards

associated with the contaminated Groundwater, including a description of permissible uses of such Wells, together with the written consent of the EGLE to such uses of Groundwater.

9. A description and time schedule for any actions the Applicant will take to implement any remediation plan, mitigate the adverse impact of the Restricted Zone (e.g., providing substitute water service), and to properly close and abandon any existing Wells subject to the use prohibition within the proposed Restricted Zone.

10. A copy of the information submitted to the EGLE concerning the proposed Restricted Zone, along with a written statement from an EGLE representative with approval authority stating that the proposed Restricted Zone and use regulations have received EGLE approval as part of the response actions for the Groundwater contamination. The EGLE's approval may be contingent upon the City's establishment of the proposed Restricted Zone pursuant to this section.

11. Copies of the notice provided to the Genesee County Health Department concerning the Restricted Zone and accompanying regulations, and the Genesee County Health Department's written acknowledgment that it will not issue permits for prohibited Wells within the Restricted Zone.

12. The Applicant also agrees to pay any additional costs beyond the established application fee necessary to properly evaluate the application. These may include, but are not limited to: the fees of environmental consultants and legal counsel, and any per diem or other amounts paid to public officials for attending any special meetings, etc. The Applicant shall also consent to the placement of a lien on the Applicant's premises if the amounts due under this section are not paid within 30 days of the issuance of an invoice by the City.

E. Along with the application, the Applicant shall pay an application fee and any related costs per the City's fee schedule as adopted by the City Council. Any failure by the Applicant to pay fees and costs as required by this provision may result in the City's discontinuance of its processing of the request to establish a Restricted Zone and can result in the filing of a lien against the premises of the Applicant.

F. Once the City Manager or his or her designee is satisfied that the application is complete, the City Manager shall place the matter on the City Council agenda to set a time, date, and place for a public hearing on the application.

G. Along with the application, the Applicant shall submit to the City Manager a list of the Affected Parcels including the Parcel ID, site address, and the mailing

address for the owner, tenant, easement holder, or mortgagee of any Affected Parcels, if known. The City shall cause a written notice of the hearing to be sent by first class mail to all persons having an interest as owner, tenant, easement holder, or mortgagee in any of the Affected Parcels. The notice shall include a brief statement regarding the application fairly designed to inform the recipients of its main features and potential impact on the recipients in general. The notice shall be mailed at least fifteen (15) days prior to the hearing. The notice of hearing shall also be published in a newspaper of general circulation in the City at least fifteen (15) days before the hearing. Affidavit of Publication shall be obtained by the City. The notice shall also be mailed to the EGLE representative who gave the approval of the proposed restricted zone and use regulations and the EGLE District Supervisor for the EGLE regulatory program with jurisdiction over the contaminated site.

H. Upon the establishment of a new Restricted Zone (i.e., after the second reading and approval of the ordinance amendment), the City Clerk shall publish notice of the amendment to this Chapter in the manner required by law for ordinance amendments. The Applicant shall give notice to the owners and occupants of all property on which wells are known to be located of the need to close and abandon Wells under this Chapter as amended.

## **SECTION 7. WELLS AFFECTING CONTAMINATED GROUNDWATER.**

No Well may be used or installed at any place in the City if the use of the Well will have the effect of causing the migration of contaminated Groundwater or a contaminated Groundwater plume to previously unimpacted Groundwater or adversely impacting any Groundwater treatment system, unless the Well is part of a EGLE or US EPA approved Groundwater monitoring or remediation system.

## **SECTION 8. NON-CONFORMING WELLS**

Any existing Well, the use of which is prohibited by this Ordinance or any Abandoned Water Well, shall be plugged in conformance with the Groundwater Quality Control Rules, Mich. Admin. Code R 325.1601 et seq. and as approved by the Genesee County Health Department or the MDEQ. Any non-conforming well shall be plugged within 30 days following establishment of the restricted zone.

## **SECTION 9. EXCEPTIONS.**

A. Existing Water Supply Wells - Municipal Water Service is Unavailable. Municipal water service is considered unavailable if a water main is more than 500 feet from a property line. For purposes of this exception, a Water Supply Well may be considered safe and suitable for use if the Water Supply Well does not pose a health or safety hazard, or is not a threat to groundwater resources (e.g., causing the migration of contaminated groundwater into uncontaminated portions of an aquifer or improper well construction). The Applicant requesting the creation of

the Restricted Zone as a land or resource use restriction shall comply with the following requirements:

1. If recommended by the EGLE or the Genesee County Health Department to be necessary, provide for sampling of the Water Supply Well on a pre-determined basis by a qualified consultant. The sample shall be analyzed by a EGLE-approved laboratory using approved laboratory methodology with the costs to be borne by the Applicant who requests the establishment of the Restricted Zone;

2. If required under a. above, the Applicant who requests the establishment of the Restricted Zone promptly provides the EGLE and the Genesee County Health Department with the analytical results and certification that the water quality meets applicable Part 201 Residential Drinking Water Criteria; and

3. If, at any time, during the duration of the groundwater use restriction the Water Supply Well is determined to be a health or safety hazard by the EGLE and/or Genesee County Health Department due to the presence of a hazardous or regulated substance at a concentration that exceeds applicable Part 201 Residential Drinking Water Criteria, a threat to the groundwater resources, or is otherwise an Abandoned Water Well, the Water Supply Well must be promptly plugged and an alternate water supply provided by the Applicant who requests the establishment of the Restricted Zone.

B. Construction of de-watering wells. Wells in the Restricted Zone used for construction de-watering are not prohibited by this Ordinance, provided that:

1. The use of the dewatering Well will not result in unacceptable exposure to Contaminated Groundwater, possible cross-contamination between saturated zones, or exacerbation of Contaminated Groundwater, as defined in Part 201 of the NREPA; and

2. The water generated by that activity is properly handled and disposed in compliance with all applicable laws and regulations. Any exacerbation caused by the use of Wells under this exception shall be the responsibility of the Person operating the dewatering Well, as provided in Part 201 of the NREPA.

C. Groundwater monitoring and remediation Wells. Wells used for Groundwater monitoring and/or remediation as part of response activity or corrective action approved by the EGLE or US EPA are not prohibited by this Ordinance.

Wells Not Used As A Water Supply Well. If the owner of a Well not used as a Water Supply Well in a Restricted Zone demonstrates that the use of a Well for non-contact heating, cooling, irrigation, or industrial activities, including discharges incidental to such use, will not cause the future migration of Contamination or Contamination of any other environmental media, the City, upon consultation with and recommendation of the Genesee County Health Department and EGLE, may execute a waiver allowing the use of the Well. The person requesting this exception shall provide the necessary Proof of No Influence.

D. Public Emergencies. A Well may be used in the event of a public emergency. Notice of such use shall be provided to the EGLE within a reasonable time thereafter.

## **SECTION 10. PENALTY**

A. Any Person or legal entity who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor offense punishable by imprisonment for not more than 90 days or by fine of not more than \$500 or both such fine and imprisonment.

B. Each act of violation and each day upon which such violation occurs or continues shall constitute a separate offense.

C. In addition, the City Manager may seek an order from a court of appropriate jurisdiction to restrain any person from violating this Ordinance, including the collection of costs and attorney fees associated with such enforcement action. Any Well in violation of this Ordinance shall also be declared and deemed a nuisance, subject to abatement, and shall be immediately taken out of service and lawfully abandoned consistent with all applicable state and local regulations. Any person found to be in violation is subject to being ordered by a court of appropriate jurisdiction to properly and lawfully remove or abandon the Well.

## **SECTION 11. INFLUENTIAL WELLS.**

No Influential Well may be used or installed without approval by the EGLE.

## **SECTION 12. PROHIBITION ON USING EXISTING RESTRICTED ZONES FOR FUTURE CLOSURES.**

When Contaminated Groundwater is attributed to and comingled from different sources of environmental contamination, a Restricted Zones shall be established for each separate source area even when the Restricted Zones overlap. Any proposed Restricted Zone shall be established in accordance with Section 6 of this Ordinance.

## **SECTION 13. BUILDING OR IMPROVEMENT PERMIT.**

No permit for building, alteration or other required permit for a premises or improvement thereon shall be issued by the City for any Affected Parcel found in violation of this Ordinance or where it is proposed to install or use a Well in violation of this Ordinance.

#### **SECTION 14. NOTIFICATION OF INTENT TO AMEND OR REPEAL.**

At least thirty (30) days prior to any amendment or repeal in whole or in part of this Ordinance, the City of Swartz Creek shall notify the Michigan Department of Environmental Quality, or its successor agency, of its intent to so act.

#### **SECTION 15. PUBLISHING AND RECORDING.**

This Ordinance or an amendment to this Ordinance shall be published or recorded as follows:

A. If the release, for which this Ordinance or amendment to this ordinance is sought, is regulated pursuant to Part 201 of the NREPA, this ordinance shall be published and maintained in the same manner as a zoning ordinance.

B. If the release, for which this Ordinance or amendment to this ordinance is sought, is regulated pursuant to Part 213 of the NREPA, this Ordinance or an amendment to this Ordinance adding a Restricted Zone shall be filed with the Genesee County Register of Deeds as an Ordinance affecting multiple properties.

#### **SECTION 16. SEVERABILITY.**

If any article, section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the Ordinance, it being the intent of the City of Swartz Creek that this Ordinance shall be fully severable. The City of Swartz Creek shall promptly notify the EGLE upon the occurrence of any event described in this section.

#### **SECTION 17. CONFLICT WITH OTHER ORDINANCES**

All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

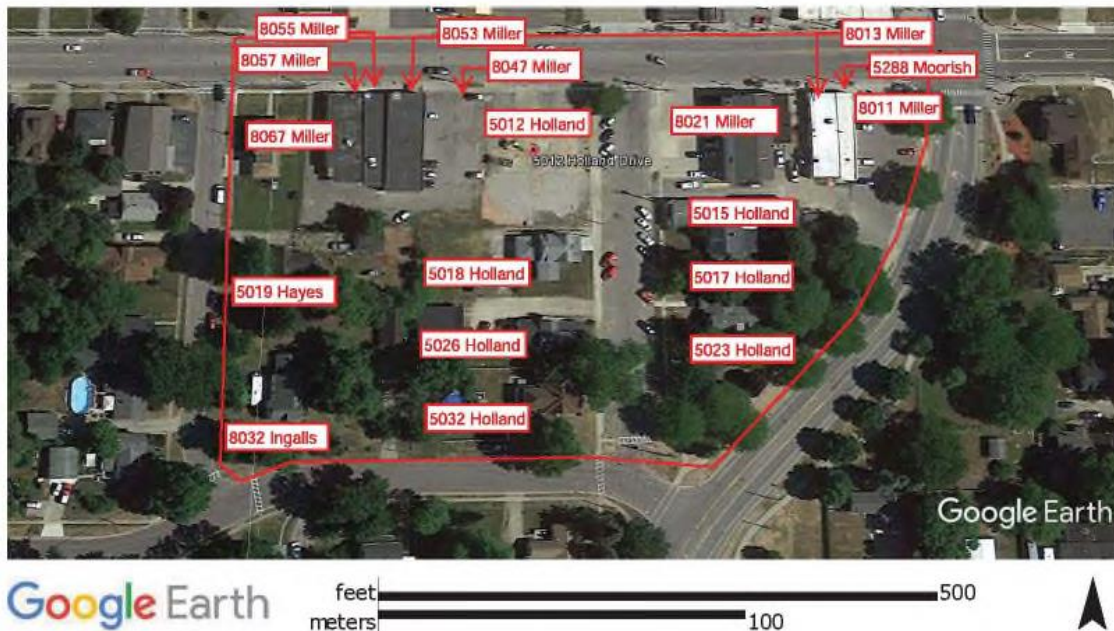
#### **SECTION 18. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect twenty (20) days after its publication as provided by law.

#### **Exhibit 1A - Figure Indicating Water Well Restriction Zone**



Exhibit 1A - Figure Indicating Water Well Restriction Zone



**Exhibit 1B: List of Properties Included in the Groundwater Ordinance**

Steven Moore 8067 Miller Road  
Swartz Creek, MI 48473 Parcel Number 58-02-529-021  
W 55 FT of LOT 2 BLK 1 AND W 55 FT OF LOT 4 BLK 1 VILLAGE OF SWARTZ CREEK  
SEC 2 T6N R5E

Marie Lovegrove Revocable Trust  
8057 Miller Road  
Swartz Creek, MI 48473 Parcel Number 58-02-529-020  
LOT 2 BLK 1 EXCEPT W 55 FT ALSO EXCEPT E 35 FT & LOT 4 BLK 1 EXCEPT W 55  
FT ALSO EXCEPT E 35 FT VILLAGE OF SWARTZ CREEK SEC 2 T6N R5E

Marie Lovegrove Revocable Trust  
8055 Miller Road  
Swartz Creek, MI 48473  
same Parcel number as above 58-02-529-020  
LOT 2 BLK 1 EXCEPT W 55 FT ALSO EXCEPT E 35 FT & LOT 4 BLK 1 EXCEPT W 55  
FT ALSO EXCEPT E 35 FT VILLAGE OF SWARTZ CREEK SEC 2 T6N R5E

Marie Lovegrove Revocable Trust  
8053 Miller Road

Swartz Creek, MI 48473 Parcel Number 58-02-529-019  
E 35 FT OF LOT 2 BLK 1 & E 35 FT OF LOT 4 BLK 1 VILLAGE OF SWARTZ CREEK  
SEC 2 T6N R5E

Marie Lovegrove Revocable Trust 8047 Miller Road  
Swartz Creek, MI 48473 Parcel Number 58-02-529-018  
W 65 FT OF LOT 1 BLK 1 & W 65 FT OF LOT 3 BLK 1 VILLAGE OF SWARTZ CREEK  
SEC 2 T6N R5E

Luea's Properties Plus, LLC / Luea's Pharmacy 8021 Miller Road  
Swartz Creek, MI 48473 Parcel Number 58-01-100-047  
A PARCEL OF LAND BEG AT NW COR OF SEC TH E 150 FT TH S 130 FT TH S 130  
FT TH W 20.88 FT TH N 10 FT TH W to SEC LINE TH N TO PL OF BEG SEC 1 T6N  
R5E (08) .42A FR 58-01-100-036/037/038/039

MLPB, LLC  
8013 Miller Road Swartz Creek, MI 48473  
Parcel Number 58-01-100-040  
A PARCEL OF LAND BEG 150 FT E OF NW COR OF SEC TH S 125 FT TH E 50 FT TH  
N 125 FT TH W 50 FT TO PLACE OF BEG SEC 01 T6N R5E .14 A

Nemecek and Sweeney, LLC  
8011 Miller Road  
Swartz Creek, MI 48473 Parcel Number 58-01-100-041  
A PARCEL OF LAND BEG 200 FT E OF NW COR OF SEC TH S 120 FT TH E 16 FT TH  
N 120 FT TH W 16 FT TO PL OF BEG SEC 01 T6N R5E .04 A

City of Swartz Creek 5012 Holland Drive Swartz Creek, MI 48473  
Parcel Number 58-02-529-017  
E 17.5 FT OF LOT 1 BLK 1 & E 100 FT OF LOT 3 BLK 1 & SCHOOL LOT VILLAGE OF  
SWARTZ CREEK SEC 2 T6N R5E

Dawn Jamison 5015 Holland Drive  
Swartz Creek, MI 48473 Parcel Number 58-01-100-035  
A PARCEL OF LAND BEG S 0° 44 MIN W 140.92 FROM NW COR OF SEC TH S 88°  
38 MIN E 219 FT TH S 0° 44 MIN W 23.78 FT TH N 89° 17 MIN 20 SEC W 218.98 FT  
TH N 0° 44 MIN E 26.29 FT TO PLACE OF BEG SEC 1 T6N R5E (76)

Dawn and Erik Jamison  
5017 Holland Drive  
Swartz Creek, MI 48473 Parcel Number 58-01-100-034  
A PARCEL OF LAND BEG S 0° 44 MIN W 167.21 FT FROM NW COR OF SEC TH S  
89° 17 MIN 20 SEC E 218.98 FT TH S 38° 25 MIN 37 SEC W 73.58 FT TH S 88° 38 MIN  
E 90 FT TH S 14.50 FT TH W 16 RDS TH N 0° 44 MIN E 56.21 FT TO PLACE OF BEG  
SEC 1 T6N R5E (76)

5023 Holland House LLC / Hull Stephens & Associates Architects 5023 Holland Drive  
Swartz Creek, MI 48473 Parcel Number 58-01-100-032  
A PARCEL OF LAND BEG S 0 DEG 44 MIN W 223.42 FT FROM NW COR OF SEC TH  
S 0 DEG 44 MIN W 58 FT TH S 88 DEG 38 MIN E 129.55 FT TH N 38 DEG 25 MIN 57  
SEC E  
72.68 FT TH N 88 DEG 38 MIN W 174 FT TO PL OF BEG SEC 1 T6N R5E (85) FR  
5800003212

Marla & Carla Martin 5018 Holland Drive Swartz Creek, MI 48473  
Parcel Number 58-02-529-005  
LOT 5 BLK 1 VILLAGE OF SWARTZ CREEK SEC 2 T6N R5E

Jason Keene  
5026 Holland Drive Swartz Creek, MI 48473  
Parcel Number 58-02-529-007  
LOT 7 BLK 1 VILLAGE OF SWARTZ CREEK SEC 2 T6N R5E

Daniel and Vesta Meissner  
5032 Holland Drive  
Swartz Creek, MI 48473 Parcel Number 58-02-529-009  
LOT 9 BLK 1 VILLAGE OF SWARTZ CREEK SEC 2 T6N R5E

Terry Coy 5019 Hayes  
Swartz Creek, MI 48473 Parcel Number 58-02-529-006  
LOT 6 BLK 1 VILLAGE OF SWARTZ CREEK SECT 2 T6N R5E

Thomas & Kassandra Doty 8032 Ingalls Street  
Swartz Creek, MI 48473 Parcel Number 58-02-529-008  
LOTS 8 & 10 BLK 1 VILLAGE OF SWARTZ CREEK (77)

At a regular meeting of the City Council of Swartz Creek held on the 22nd day of July,  
2019, Councilmember Farmer moved for adoption of the ordinance and Councilmember  
Cramer supported the motion.

The Mayor declared the ordinance adopted.

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David Krueger  
Mayor

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Connie Eskew  
Clerk

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 441 which was enacted by the Swartz Creek City Council at a regular meeting held on the 22<sup>nd</sup> day of July, 2019.

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Connie Eskew  
City Clerk

Voting For: Farmer, Gilbert, Hicks, Krueger, Pinkston, Cramer  
Voting Against: None.

YES: Farmer, Gilbert, Hicks, Krueger, Pinkston, Cramer.  
NO: None. Motion Declared Carried.

### **NLC LINE INSURANCE AGREEMENT**

### **DISCUSSION**

Mr. Zettel doesn't feel that we should do this and he feels we should drop this from future discussion if council agrees.

Council agrees to drop this from future discussion.

### **MEETING OPENED TO THE PUBLIC:**

Steve Long, 5356 Worchester Drive, he thinks it was great how everyone worked together last week and got the city back together after the storm. He also is on board with the condo project.

Erik Jamison, 5015 & 5017 Holland Drive, the Elms Park Slip & Slide was a great success. Fire Department opening up the hydrants was a great community event. The streetscape is coming along fantastic.

### **REMARKS BY COUNCILMEMBERS:**

Councilmember Cramer is fully supportive of the Brewer townhome project. He encourages everyone to get involved. It was incredible to see community involvement after the storm and the Slip & Slide was great.

Councilmember Farmer had a blast at the Slip & Slide event.

Councilmember Hicks thanks Mr. Barclay for running the Slip & Slide event. She also thanked the SCFD, Women's Club, Friends of Library and Walt Melen for helping at the event. There were no accidents. United Methodist Church is having a speaker from the Flint River Watershed Coalition on Wednesday, July 31<sup>st</sup> at 7:00 p.m.

Councilmember Gilbert is disappointed on the sale of the property for the condo project. He would like to see more police presence on Miller Road.

Mayor Pro Tem Pinkston is pleased on how downtown is looking.

Mayor Krueger lots of good things happening in Swartz Creek. Looking forward to fall the event Jeepers Creekers.

## **ADJOURNMENT**

**Resolution No. 190722-09**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Cramer

**I Move** the Swartz Creek City Council adjourn the regular meeting at 9:45 p.m.

Unanimous Voice Vote.

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**David A. Krueger, Mayor**

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**Connie Eskew, City Clerk**