

ORDINANCE NO. 1621

AN ORDINANCE OF THE TOWN OF GREENVILLE, FORMERLY KNOWN AS THE BOROUGH OF GREENVILLE, MERCER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF GREENVILLE BY ADDING A NEW CHAPTER 231 TO BE ENTITLED "WATER, NON-USE AQUIFER," WHICH CHAPTER PROVIDES FOR THE CREATION AND IMPLEMENTATION OF A NON-USE AQUIFER IN A DESIGNATED AREA OF THE TOWN OF GREENVILLE.

BE IT ENACTED AND ORDAINED by the Council of the Town of Greenville, Mercer County, Pennsylvania; it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: The Code of the Town of Greenville is hereby amended by adding thereto a new chapter, to be chapter 231, Water, Non-Use Aquifer, to read as follows:

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|----------|--------------------------------|
| § 231-1 | Title |
| § 231-2 | Purpose |
| § 231-3 | Background |
| § 231-4 | Conflict with other provisions |
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| § 231-13 | Effective date |

§ 231-1 TITLE

This chapter shall be known as the 'Non-Use Aquifer Ordinance of the Town of Greenville, Pennsylvania,' in accordance with and exercising the authority of the Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), Pennsylvania Code 25 Chapters 109 (Safe Drinking Water) and 250 (Administration of the Land Recycling Program), Section 301.4 of the International Plumbing Code of 2003, and Chapter 2 of the Pennsylvania Department of Environmental Protection Technical Guidance Manual, among others, to prohibit, regulate, restrict and determine the use of groundwater for any purposes within the Non-Use Aquifer Area as specified by the Town of Greenville and indicated by the map shown in attached Figure 1.

§ 231-2 PURPOSE

This chapter shall have as its general purposes:

To establish the prohibition of groundwater use for any purpose within the specified zone on the attached Figure 1 within the Town of Greenville. To require all properties in the specified area of the Town of Greenville to connect to a community water supply. To require that any existing groundwater wells within the specified area of the Town of Greenville be decommissioned. To promote, protect, and facilitate public health, safety, and welfare of the general public within the Town of Greenville by applying appropriate procedures to implement and regulate the above purposes.

§ 231-3 BACKGROUND

The Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), as part of the effort to eliminate public health and environmental hazards on existing commercial and industrial land across the Commonwealth, establishes conditions and responsibilities for the use and reuse of those lands as sources of employment, housing, recreation and open-space areas as a means to prevent the needless development of prime farmland, open-space areas, and natural areas and reduce public costs for installing new water, sewer, and highway infrastructure.

The Act recognizes that cleanup plans should be based on the actual risk that contamination on a site may pose to public health and the environment and consider its current and future use. The Act does not require that every site be returned to a pristine condition. The Act further establishes environmental responsibilities and economic incentives for the redevelopment of the aforementioned land and designates the Pennsylvania Department of Environmental Protection (PADEP) as the overseeing agency for any environmental cleanup effort associated with the Act.

Accordingly, the Pennsylvania Department of Environmental Protection has established its Land Recycling Program, which provides background information and guidance relative to the remediation of sites possessing contaminated groundwater. The Act 2 program provides options available to the remediator of those sites and options and responsibilities of the municipalities and authorities having jurisdiction control over those sites. One of the proactive institutional control options available to a municipality for the protection of its citizens is the establishment of an ordinance prohibiting groundwater use for any purposes. This option, which is known as "Request for Certification of a Nonuse Aquifer Area Initiated by a Local Government," is used by municipal authorities and political subdivisions which desire to receive certification that a given geographic area meets the conditions of Act 2, Section 250.303(c) (i.e., nonuse aquifers are conditions) where no specific property to be remediated has been identified. These conditions are based on Section 250.303(f) of Act 2 of 1995, which requires an ordinance prohibiting groundwater use for any purposes, and requires every property to be connected to the public water supply.

§ 231-4 CONFLICT WITH OTHER PROVISIONS

This chapter does not intend to repeal, abrogate, annul or interfere with any existing ordinances or enactments or with any rule, regulation, or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter, provided that where this chapter imposes greater restrictions upon the use of groundwater than are required by the provisions of such ordinance, enactment, rule, regulation or permit, then the provisions of this chapter shall control.

§ 231-5 TERMINOLOGY AND DEFINITIONS

A. Rules of Construction

For the purpose of this chapter, certain terms of words used herein are defined as follows, using these rules of construction:

1. The present tense includes the future tense.
2. The singular number includes the plural, and the plural number includes the singular.
3. The word "shall" is mandatory, and the term "may" is permissive.

B. Definitions

"Aquifer." A geological formation, group of formations, or part of a formation capable of a sustainable yield of a significant amount of water to a well or spring,

"Cleanup or remediation." To clean up, mitigate, correct, abate, minimize, eliminate, control, or prevent a release of a regulated substance into the environment, to protect the present or future health, safety, and welfare of the environment, including preliminary actions to study or assess the release.

"Control." To apply engineering measures, such as capping or treatment or institutional measures, such as deed restrictions to sites with contaminated media.

"Decommissioned." To render the groundwater well unusable for supplying water by the removal of any and all surface and subsurface connections and filling of the well from the bottom of the borehole to the surface with a sealant as described in Appendix A of the Land Recycling Program Technical Guidance Manual (Document No. 261-0300-101).

"Groundwater." Water below the land surface in a zone of saturation.

"Municipality." A township, borough, city, incorporated village, or home rule municipality. This term shall not include a county.

"Site." The extent of contamination originating within the property boundaries and all areas in close proximity to the contamination is necessary for the implementation of remediation activities to be conducted under Pennsylvania Act 2 of 1995.

§ 231-6 REGULATIONS

A. Restrictions

All real estate located within the boundaries of the Non-Use Aquifer area as indicated by the attached Figure 1 within the Town of Greenville shall be subject to the following restrictions:

1. As indicated by the attached Figure 1, all buildings located within the boundaries of the Non-Use Aquifer area are mandated to connect to the public drinking water system servicing the area.
2. All groundwater wells located on properties within the Non-Use Area shall be decommissioned, at the expense of the owner, in accordance with all applicable laws, regulations and ordinances within 120 days of the adoption of this ordinance.
3. The Town shall issue no building permit without verification of public drinking water service available to any building within the identified area by the attached Figure 1.
4. No building may be occupied without verification that the building has connected to the public drinking water system and there are no other water supply sources connected to the building for use in supplying water for any purpose to the building, including but not limited to, groundwater sources, within the identified area by the attached Figure 1.
5. No well or spring located on a property shall be used as a groundwater source for any purposes within the identified area by the attached Figure 1.
6. No owner, lessee, or another person shall use any groundwater source for any purposes within the identified area by the attached Figure 1.

B. Appeals.

Any person or persons, or any board, taxpayer, department, or bureau of the Town aggrieved by any decision of the Town Official appointed to enforce this ordinance may seek review by the Court of Common Pleas pursuant to the Local Agency Law.

§ 231-7 AMENDMENTS

This ordinance may only be amended in accordance with the requirements set forth hereinafter:

Any amendment shall be effective thirty (30) days after written notice has been given to the Commonwealth of Pennsylvania Department of Environmental Protection together with a copy of the proposed amendment.

Upon adoption of any amendment to this ordinance, notice shall be given to the public water supplier.

§ 231-8 ADMINISTRATION AND ENFORCEMENT

The government officer responsible for the issuance of building permits and enforcement of building codes shall administer and enforce this chapter to include the proposal of amendments to the prohibition of groundwater use for any purpose in the designated area identified in the attached Figure 1 in the Town of Greenville, and notification of the public water supplier and the Land Recycling Program Manager of the Northwest Regional Office of the PADEP of any changes in status or requirements. If the government officer finds that any provisions of this ordinance are being violated, notice shall be given, in writing, to the person responsible, and they shall order the discontinuance of the illegal use of aquifer water supplies and shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

§ 231-9 VIOLATIONS AND PENALTIES

Violation of the provisions of this chapter or failure to comply with any and all of its requirements shall be grounds for a civil proceeding. Any property owner or lessee of land situated in the designated area identified in the attached Figure 1 in the Town of Greenville who has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil proceeding commenced by the Town, pay a judgment of not less than two hundred (\$200) and more than one thousand dollars (\$1,000), plus all court costs, including reasonable attorney fees incurred by the Town as a result thereof. No judgments shall commence or be imposed, levied, or payable until the date of the determination of the violation by the Magisterial District Judge. Each day that a violation continues shall constitute a separate violation, although the District Justice may, at his discretion, determine that the first day of violation is the fifth day after his decision if he believes the violator was unaware of the violation before being charged. All judgments, costs, and reasonable attorney fees collected shall be paid to the Town.

Nothing contained herein shall be construed or interpreted to grant to any person or entity other than the Town the right to commence any action for enforcement pursuant to this section, nor prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation, or to bring an action to enjoin any violation of this chapter.

In addition, an action may be instituted to compel a user within the designated area identified in the attached Figure 1 to cease using the well or spring for any purposes.

§ 231-10 SAVING CLAUSE

That nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing, under any Act or Ordinance hereby repealed as cited in § 231-4 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

§ 231-11 SEVERABILITY.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance.

§ 231-12 REPEALER.

This Ordinance shall be incorporated in the Greenville Town Code of Ordinances and all other Ordinances or parts thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed.

§ 231-13 EFFECTIVE DATE.

This Ordinance shall become effective 30 days after passage and signing of Greenville Town Council.

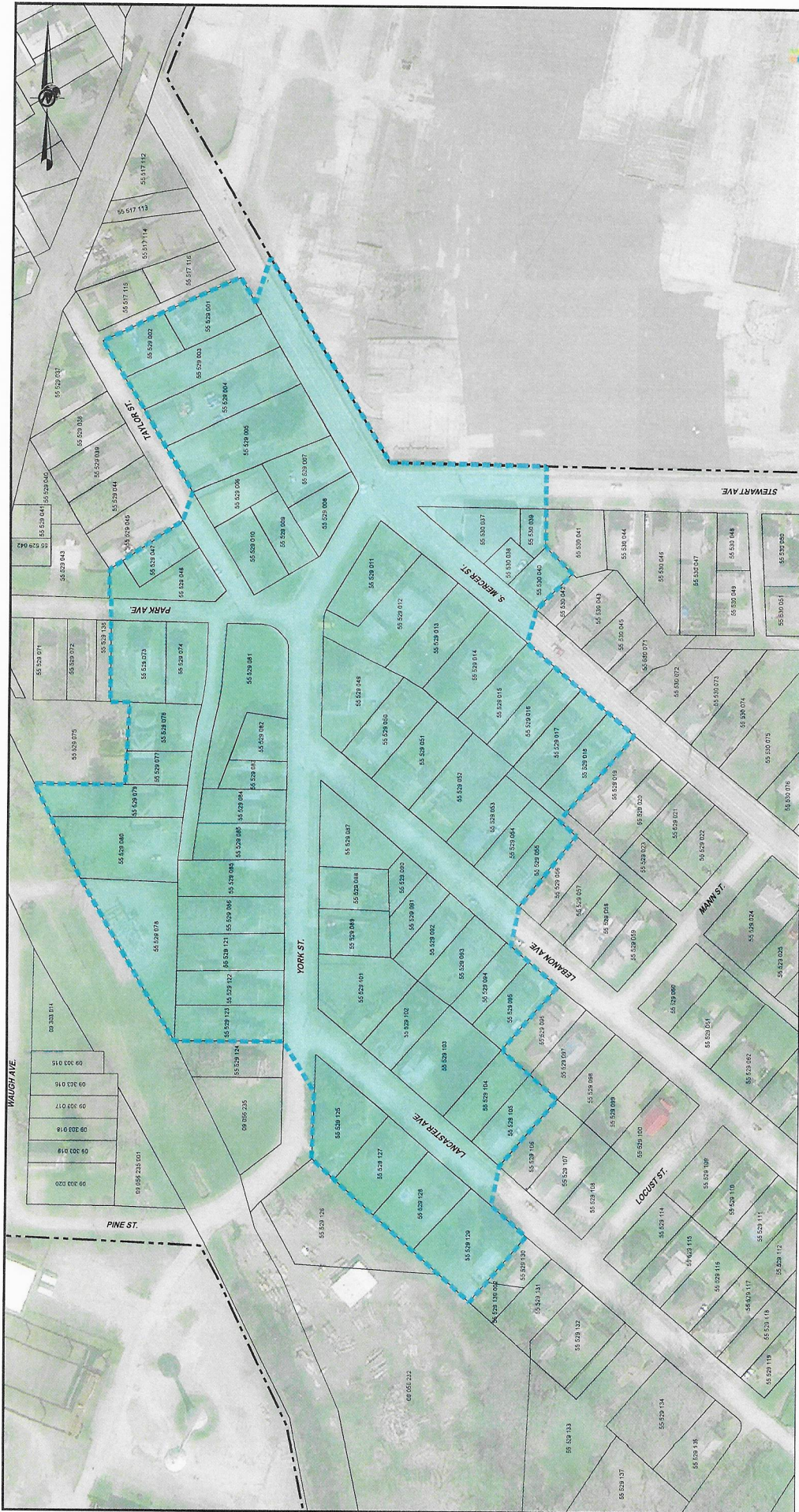
ENACTED AND ORDAINED into law by the Council of the Town of Greenville this 12th day of September, 2022.

Attest:

TOWN OF GREENVILLE

Jasson W. Urey
Town Manager

Paul Hamill
Mayor



LEGEND

- PROPERTY LINE
- EXPANDED NON-USE AQUIFER ORDINANCE AREA

REFERENCES

- 1) IMAGE COURTESY OF © 2022 MICROSOFT CORPORATION BING.
- 2) PARCEL INFORMATION FROM ARCIS ONLINE RESOURCE.

PROJECT

| REV | DATE | DES | CHK | BY |
|-----|------|-----|-----|----|
| | | | | |

TITLE

TOWN OF GREENVILLE, PA

NON-USE AQUIFER ORDINANCE AREA

PROJECT NO. 0246008 **FILE NO.** 073000000028

DESIGN WS **SCALE** AS SHOWN **REV.** 0

CADD RS **SCALE** AS SHOWN **REV.** 0

CHECK **REVIEW**

FIGURE 1

0 50 100 150

SCALE FEET