#### PREPARED BY:

Name: Mr. Michael Flight

Cermak Plaza Associates, LLC

Address: 10031 West Roosevelt Road

Suite 200

Westchester, IL 60154



Doc#: 0926745137 Fee: \$66.00

Eugene "Gene" Moore

Cook County Recorder of Deeds

Date: 09/24/2009 03:55 PM Pg: 1 of 16

#### **RETURN TO:**

Name: Mr. Michael Flight

Cennak Plaza Associates, LLC

Address: 10031 West Rosevelt Road

Suite 200

Westchester, IL 60154

## THE ABOVE SPACE FOR RECORDER'S OFFICE

The remediation applicant must submit this Invironmental No Further Remediation Letter within 45 days of its receipt, to the Office of the Recorder of Cook Courty.

Illinois State EPA Number: 0310215151

Cermak Plaza Assocaites, LLC, the Remediation Applicant, whose address is 10031 West Roosevelt Road Suite 200, Westchester, IL 60154- has performed investigative and/or re nedial activities for the remediation site depicted on the attached Site Base Map and identified by the following.

Legal description or Reference to a Plat Showing the Boundaries: INAT PART OF LOT 1 (EXCEPT THOSE PARTS FALLING IN STREET) OF THE CIRCUIT COURT PART. TON OF THE WEST PART OF THE NORTHWEST ¼ AND THE WEST PART OF THE SOUTHWEST ¼ OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF A STRAIGHT LINE RUNNING FROM A POINT IN THE EAST LINE OF SOUTH HARLEM AVENUE, 1590.99 FEET NORTH OF ITS INTERSECTION WITH THE NORTH LINE OF WEST 26TH STREET TO A POINT IN THE WEST LINE OF SOUTH HOME AVENUE, 971.94 FEET SOUTH OF ITS INTERSECTION WITH THE SOUTH LINE OF WEST CERMAK ROAD.

AND ALSO EXCEPTING THEREFROM ALL THAT PORTION CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED JULY 28, 1964 AS DOCUMENT NUMBER 19198042 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST ¼ CORNER OF SAID SECTION 30, THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 30 A DISTANCE OF 1374.29 FEET TO THE EXTENDED WEST LINE OF HOME AVENUE, AS THE SAME IS NOW LOCATED AND ESTABLISHED, THENCE SOUTH ALONG THE WEST LINE OF HOME AVENUE, AND THE SAME EXTENDED A DISTANCE OF 60 FEET TO A POINT; THENCE WEST IN A STRAIGHT LINE PARALLEL TO AND DISTANT 60 FEET SOUTH, MEASURED AT RIGHT ANGLES FROM SAID NORTH LINE OF SECTION 30, A DISTANCE

OF 286.00 FEET TO A POINT; THENCE SOUTH IN A STRAIGHT LINE MEASURED AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 5.00 FEET TO A POINT; THENCE WEST IN A STRAIGHT LINE PARALLEL TO AND DISTANT 65.00 FEET SOUTH, MEASURED AT RIGHT ANGLES FROM SAID NORTH LINE OF SECTION 30, A DISTANCE OF 972.86 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVED LINE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 65.00 FEET AND A CENTRAL ANGLE OF 90 DEGREES, 22 MINUTES, 30 SECONDS, A DISTANCE OF 102.51 FEET TO A POINT OF TANGENCY IN THE EAST LINE OF HARLEM AVENUE AS THE SAME IS NOW LOCATED AND ESTABLISHED, DISTANT 50.00 FEET EAST MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID SECTION 30; THENCE WEST IN A STRAIGHT LINE, A DISTANCE OF 50.00 FEET TO A POINT IN THE WEST LINE OF SAID SECTION 30; A DISTANCE OF 130.43 FEET TO THE POINT OF BEGINNING (EXCEPTING THAT PART OF THE ABOVE DESCRIBED PREMISES PREVIOUSLY DEDICATED OR NOW USED FOR HARLEM AVENUE AND CERMAK ROAD), ALL IN COOK COUNTY, ILLINOIS.

#### Remediation Site Bounclary

BEGINNING AT A POINT ON THE EASTERN BOUNDARY OF THE CERMAK PLAZA PARCEL (SEE FOLLOWING LEGAL DESCRIPTION), 444 FEET NORTH OF THE SOUTHEASTERN CORNER OF SAID PARCEL; THENCE WEST, ALONG A LINE PERPENDICULAR TO THE EASTERN BOUNDARY OF THE CERMAK PLAZA PARCEL, 307 FEET; THENCE NORTH, 176 FEET; THENCE EAST 307 FEET; THENCE SOUTH, ALONG THE EASTERN BOUNDARY OF THE CERMAK PLAZA PARCEL, 176 FEET, TO THE POINT OF BEGINNING.

- 2. Common Address: 7003 Cermak Road, Berwyn, IL
- 3. Real Estate Tax Index/Parcel Index Number: 16-30-100-014-0000
- 4. Remediation Site Owner: Cermak Plaza Associates, LLC.
- 5. Land Use: Industrial/Commercial
- 6. Site Investigation: Focused

0926745137 Page: 3 of 15



## ILLINOISE FIGURE AL GOPETION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829 James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

**DOUGLAS P. SCOTT, DIRECTOR** 

(217) 782-6761

Date: September 15, 2009

**CERTIFIED MAIL** 

7007 0220 0000 0041 4924

Mr. Michael Flight Cermak Pleza Associates, LLC 10031 West Roosevelt Road Suite 200 Westchester, IL v0154

Re:

0310215151 /Cook

Berwyn / Cermak Plaza Associates

Site Remediation Program Technical Reports

No Further Remediation Letter

Dear Mr. Flight:

The Focused Site Investigation Report, Remediation Objectives Report and Remedial Action Completion Report (Date May 7, 2009/Log Number 09/41396 and received May 12, 2009), as prepared by Pioneer Engineering & Environmental Services, Inc. for the above referenced Remediation Site, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA"). The Report demonstrates that the remedial action was completed in accordance with the Remedial Action Plan (May 7, 2009/Log Number 09/41396 and received May 12, 2009) and 35 Illinois Administrative Code Parts 740 and 742.

The Remediation Site, consisting of 1.24 acres, is located at 7003 Cermak Rcad, Serwyn, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ('Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form received May 12, 2009 is Cermak Plaza Associates, LLC.

This focused No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment for the specified recognized environmental conditions so long as the Site is utilized in accordance with the terms and conditions of this Letter.

#### **Conditions and Terms of Approval**

#### Level of Remediation and Land Use Limitations

- 1) The land use specified in this Letter may be revised if:
  - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use.
  - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted there under.
- 2) The Remediation Site is restricted to Industrial/Commercial land use.
- 3) The recognized environmental conditions, as characterized by the focused site investigation, consist of the following:
  - a) Regulated substatices of concern that have been successfully addressed are detailed in the attached Table A.

#### **Engineering Controls:**

- 4) The asphalt barrier, as shown in the attached Site Base Map, must remain over the contaminated soils. This asphalt barrier must be properly maintained as an engineered barrier to inhibit inhalation exposure to the contaminated media.
- 5) The clean soil barrier, which is comprised of a nuirimum of 10 feet of clean soil covering the area shown in the attached Site Base Map, must remain over the contaminated soils. This clean soil barrier must be properly maintained as an engineered barrier to inhibit inhalation exposure to the contaminated media.
- 6) The concrete cap barrier, as shown in the attached Site Base Map, must remain over the contaminated soils. This concrete cap barrier must be properly mai stained as an engineered barrier to inhibit inhalation exposure to the contaminated media.

#### **Institutional Controls:**

- 7) Ordinance No. 06-12 adopted March 1, 2006 by the City of Berwyn effectively probioits the installation and use of potable water supply wells in the City of Berwyn. This ordinance provides an acceptable institutional control under the following conditions:
  - a) Where a groundwater ordinance is used to assure long-term protection of human health the Remediation Applicant must record a copy of the groundwater ordinance adopted and administered by a unit of local government along with this Letter.
  - b) The current owner or successor in interest of this Remediation Site who relies on this ordinance as an institutional control shall:
    - Monitor activities of the unit of local government relative to variance requests or changes in the ordinance relative to the use of potable groundwater at this Remediation Site; and

## Page 3 UNOFFICIAL COPY

- ii) Notify the Illinois EPA of any approved variance requests or ordinance changes within thirty (30) days after the date such action has been approved.
- c) The Remediation Applicant shall provide written notification to the City of Berwyn and to owner(s) of all properties under which groundwater contamination attributable to the Remediation Site exceeds the objectives approved by the Illinois EPA. The notification shall include:
  - i) The name and address of the local unit of government;
  - ii) The citation of the ordinance used as an institutional control in this Letter;
  - iii) A description of the property for which the owner is being sent notice by adequate leggi description or by reference to a plat showing the boundaries;
  - iv) A statement that the ordinance restricting the groundwater use has been used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
  - v) A statement as to the nature of the release and response action with the name, address, and Illinois EFA inventory identification number; and
  - vi) A statement as to where more information may be obtained regarding the ordinance.
- d) Written proof of this notification shall be submitted to the Illinois EPA within forty-five (45) days from the date this Letter is recorded to.

Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

- e) The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:
  - i) Modification of the referenced ordinance to allow potable uses of ground vater;
  - ii) Approval of a site-specific request, such as a variance, to allow use of groundwater at the Remediation Site or at the affected properties;
  - iii) Failure to provide written proof to the Illinois EPA within forty-five (45) days from the date this Letter is recorded of written notification to the City of Berwyn and affected property owner(s) of the intent to use Ordinance No. 06-12 as an institutional control at the Remediation Site; and
  - iv) Violation of the terms and conditions of this No Further Remediation letter

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#### Other Terms

- 8) At a minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSHA regulations (particularly in 29 CFR 1910 and 1926), state and local regulations, and other USEPA guidance. Soil excavated below must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.
- 9) Where the Remediation Applicant is <u>not</u> the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program* Form. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 10) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency Attn: Free ao n of Information Act Officer Bureau of Lar a-#24 1021 North Grand Avenue East Post Office Box 19276 Springfield, IL 62794-9276

- 11) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58 19(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current titleholder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the voidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
  - a) Any violation of institutional controls or the designated land use restrictions:
  - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
  - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
  - d) The failure to comply with the recording requirements for this Letter;
  - e) Obtaining the Letter by fraud or misrepresentation;

## Page 5 UNOFFICIAL COPY

- f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
- g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
- h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.
- 12) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:
  - a) Cermal, Plaza Associates, LLC;
  - b) The owner and operator of the Remediation Site;
  - c) Any parent corporation or subsidiary of the owner of the Remediation Site;
  - d) Any co-owner, either by joint tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
  - e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remedia on Site;
  - f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
  - g) Any successor-in-interest of the owner of the Remediation Site;
  - h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
  - i) Any heir or devisee of the owner of the Remediation Site;
  - j) Any financial institution, as that term is defined in Section 2 of the Illinois Builing Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-ininterest thereto; or
  - k) In the case of a fiduciary (other than a land trustce), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.

#### Page 6

## NOFFICIAL C

- 13) This letter, including all attachments, must be recorded as a single instrument within fortyfive (45) days of receipt with the Office of the Recorder of Cook County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Remediation Site.
- 14) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Robert E. O'Hara Illinois Environmental Protection Agency Bureau of Land/RPMS 1021 North Grand Avenue East Post Office Box 19276 Springfield, IL 62794-9276

15) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with he billing statement.

If you have any questions regarding this correspondence, you may contact the Illinois EPA project manager, Mr. Max Twum at (217) 558-0°32. Any Clork's C

Sincerely,

Joyce L. Munie P.E., Manager

Remedial Project Management Section Division of Remediation Management

Bureau of Land

Property Owner Certification of No Further Remediation Let'æ: under the Attachments (2):

Site Remediation Program Form Notice to Remediation Applicant

cc:

Megan Wells-Paske Pioneer Engineering & Environmental Services, Inc. 700 North Sacramento Boulevard Suite 101 Chicago, IL 60612

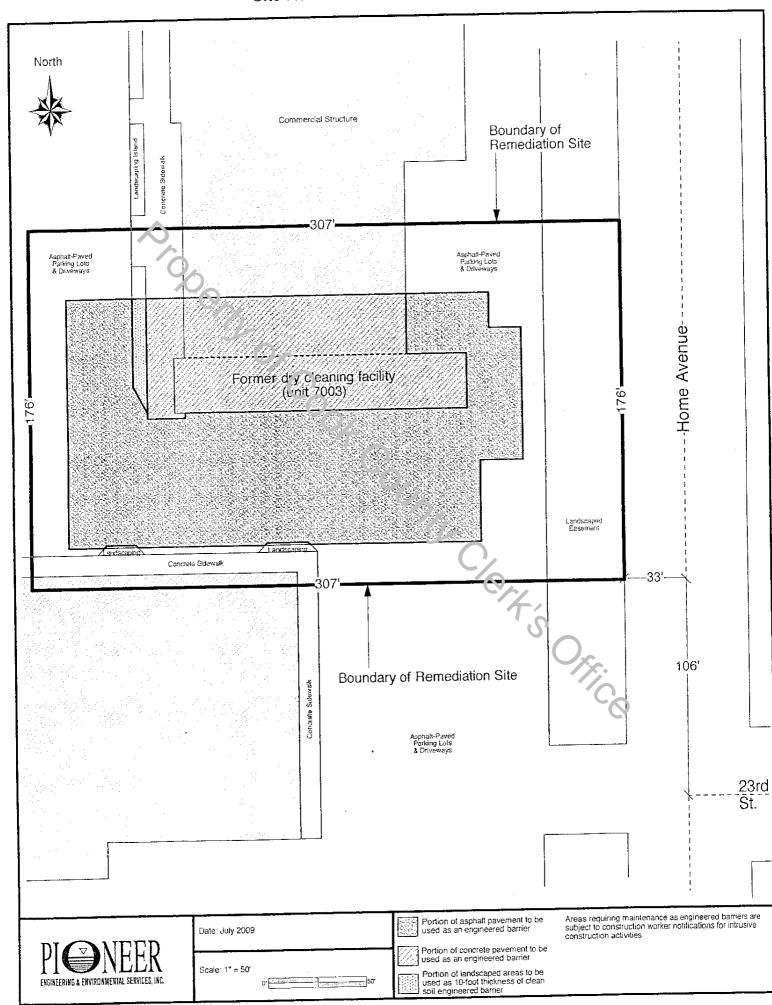
## SITE REMEDIATION PROGRAM <u>TABLE A</u>: REGULATED SUBSTANCES OF CONCERN 0310215151/Cermak Plaza Associates

### **Volatile Organic Compounds**

| CAS No.          | Compound Name                      |
|------------------|------------------------------------|
| 67-64-1          | Acetone                            |
| 71-43-2          | Benzene                            |
| 75-27-4          | Bromodichloromethane               |
| 75-25-2          | Bromoform                          |
| 74-83 <b>-</b> 0 | Bromomethane                       |
| 78-93-3          | 2-Butanone (MEK)                   |
| 75-15-0          | Carbon Disulfide                   |
| 56-23-5          | Carbon Tetrachloride               |
| 108-90-7         | Chlorobenzene                      |
| 124-48-1         | Chlorodibromomethane               |
|                  | (Dibromochloromethane)             |
| 75-00-3          | Chloroethane                       |
| 67-66-3          | Chlo.otcrm                         |
| 74-87-3          | Chlororie hane                     |
| 75-34-3          | 1,1-Dichicroethane                 |
| 107-06-2         | 1,2-Dichloroe hane                 |
| 75-35-4          | 1,1-Dichloroeth ne                 |
| 156-60-5         | trans-1,2-Dichloro(thene           |
| 156-59-2         | cis-1,2-Dichloroethene             |
| 78-87-5          | 1,2-Dichloropropane                |
| 10061-02-6       | trans-1,3-Dichloropropene          |
| 10061-01-5       | cis-1,3-Dichloropropene            |
| 100-41-4         | Ethylbenzene                       |
| 591-78-6         | 2-Hexanone                         |
| 75-09-2          | Methylene Chloride                 |
| 108-10-1         | 4-Methyl-2-Pentanone (MIBK)        |
| 1634-04-4        | Methyl Tertiary Butyl Ether (MTBE) |
|                  | (MTBE)                             |
| 100-42-5         | Styrene                            |
| 127-18-4         | Tetrachloroethene                  |
| 630-20-6         | 1,1,1,2-Tetrachloroethane          |
| 79-34-5          | 1,1,2,2-Tetrachloroethane          |
| 109-99-9         | Tetrahydrofuran                    |
| 79-01-6          | Trichloroethene                    |
| 71-55-6          | 1,1,1-Trichloroethane              |
| 79-00-5          | 1,1,2-Trichloroethane              |
| 108-88-3         | Toluene                            |
| 108-05-4         | Vinyl Acetate                      |
| 75-01-4          | Vinyl Chloride                     |
| 1330-20-7        | Xylenes (total)                    |

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# Site Base Map Site Base Map LPC#1210215 50 Cook Coany Derwyn / Cermak Flaza Associates LLC Site Remediation / Technical Reports



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## **UNOFFICIAL COPY**

:4/3/2008 Run Date

DLC Assignment Form

:6225 Assignment ID

:Berwyn/Mike & Sons Subject :Ordinance Review Subject Type

:4/3/2008 DLC In Date

DLC File No.

Correspondence No.: R08040301

DLC Completed Date.

Assigned Staff.

Attorney Flowers, Stephanie

Project Details:

Status Issued Date: 4/3/2003 Gity o. Due Date: 5/2/2008

Please review ordinance 06-12 for City of Berwyn

Comments:

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## **UNOFFICIAL COPY**

ORDINANCE NO. 06-12

AN ORDINANCE PROHIBITING THE USE
OF GROUNDWATER AS A POTABLE
WATER SUPPLY BY THE INSTALLATION
OR USE OF POTABLE WATER SUPPLY
WELLS OR BY ANY OTHER METHOD IN THE
CITY OF BERWYN, COOK COUNTY, ILLINOIS

WHEREAS, certain properties in the City of Berwyn, Illinois have been used over a period of time for commercial/industrial purposes; and

WHEREAS, because of said us 3, concentrations of certain chemical constituents in the groundwater beneath the City of Berwyn may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 illinois Administrative Code 620 or Tier 1 remediation objectives as set forth in 35 illinois Administrative Code 742; and

WHEREAS, the City of Berwyn desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERWYN, ILLINOIS:

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## **UNOFFICIAL COPY**

## SECTION 1: The use of groundwater as a potable water supply prohibited.

Except for such uses or methods in existence before the effective date of this ordinance. the use of, or attempted use of, groundwater from within the corporate limits of the City of Berwyn, as a potable water supply, by the installation or drilling of wells or by any other method, is hereby prohibited. This prohibition expressly includes the City of Berwyn.

#### SECTION 2: Penalties.

Any person violating the provisions of this ordinance shall be subject to a fine of up to Five Hundred Dollars and no/100 (\$500.00) per day, for each violation.

#### Definitions. **SECTION 3:**

"Person" is any individual, partnership, cu-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

## SECTION 4: Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are hereing repealed insofar as they are in conflict with this ordinance, specifically Ordinance No. 1042.25 is hereby repealed and replaced by this ordinance.

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#### SECTION 5: Severability.

If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

## SECTION 6: Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

0926745137 Page: 15 of 15

Michael A. O'Connor Mayor



COPY Thomas Pavlik City Clerk

## A Century of Progress with Pride

6700 West 26th Street Berwyn, Illinois 60402-0701 Telephone: (708) 788-2660 Fax: (708) 788-2675 www.berwyn-il.gov

February 26, 2008

#### CERTIFICATION

To Whom It May Concern:

I, Thomas J. Pavlik
Thomas J. Pavlik, City Clerk

do hereby certify that the attached is a true and correct copy of

Ordinance No. 06-12 dated March 1, 2006 entitle':

AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY BY THE INSTALLATION OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY OTHER METHOD IN THE CITY OF BERWYN, COOK COUNTY, ILLINOIS

The original of which is on file in the office of the Berwyn City Clerk.

Dated this 26th \_\_\_\_ day of \_\_February \_\_\_\_\_, 200

Thomas J. Pavlik, City Clerk