

ORDINANCE NO. OR98-10-102
ADOPTED OCTOBER 14, 1998

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE HAMILTON ZONING ORDINANCE NO. 7503 AND ADDING THERETO NEW DEFINITIONS AND NEW CHAPTER 1128.00 RELATIVE TO ESTABLISHING A WELLHEAD PROTECTION AREA AND PROVIDING FOR THE REGULATION OF SUBSTANCES FOR THE PROTECTION OF GROUNDWATER RESOURCES WITHIN THE CORPORATE LIMITS OF CITY OF HAMILTON.

WHEREAS, the City of Hamilton relies solely on the Great Miami Buried Valley Aquifer for meeting one hundred percent (100%) of its residential, commercial, and industrial water needs; and

WHEREAS, specific land uses and activities may contribute to the degradation of groundwater quality; and

WHEREAS, the risk of contamination of groundwater in the City of Hamilton will be reduced by managing development, land use, and commercial activity within identified groundwater protection zones of the City of Hamilton; and

WHEREAS, the Ohio Environmental Protection Agency requires a Wellhead Protection Program for the protection of existing and future groundwater supplies; and

WHEREAS, protection of the groundwater resource benefits present and future groundwater users in southwest Butler County and northern Hamilton County who receive water from one of six (6) public and private water suppliers in the Hamilton to New Baltimore area, thereby requiring cooperation among these water suppliers and their host communities; and

WHEREAS, protection of groundwater resources adds to the economic viability of the City of Hamilton, and the City of Hamilton wishes to balance the protection of groundwater with the promotion of economic interests of the City; and

WHEREAS, Council now wishes to amend and supplement the Hamilton Zoning Ordinance No. 7503 by providing for the establishment of a Wellhead Protection Area and the regulation of substances for the protection of groundwater resources within the boundaries of the City of Hamilton, Ohio:

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Section 1102.20 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1102.20 **PURPOSE.** The text of Zoning Ordinance No. 7503, the Official Zoning Map, and the Official Wellhead Protection Area Map, together with all amendments to said Ordinance No. 7503 and the aforesaid maps, shall constitute the Comprehensive Zoning Ordinance and regulations for the incorporated area of the City of Hamilton, Ohio, all of which are adopted to:

- (1) protect and promote the public health, safety, convenience, comfort, prosperity, or general welfare; and
- (2) provide the economic and social advantages which result from an orderly, planned use of land resources.

Such regulations are designed to achieve the following objectives:

SECTION II: That Section 1103.00 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1103.00 ESTABLISHMENT OF USE DISTRICTS AND SUBDISTRICTS:

(A) The City is hereby divided into Use Districts as provided for herein and as shown on the Official Zoning Map. Subdistricts within the Use Districts for Historic Preservation and the Wellhead Protection Area may be established pursuant to the provisions herein, including any supplements or amendments to the Zoning Ordinance No. 7503. The Official Zoning Map and the Official Wellhead Protection Area Map, together with all data, references, explanatory material and notations thereon, are hereby adopted and are declared to be a part of Zoning Ordinance No. 7503. The following provisions shall apply to the Official Zoning Map and the Wellhead Protection Area Map:

(1) Each of the Official Zoning Map and the Official Wellhead Protection Area Map shall be identified by the signature of the Mayor, attested to by the Clerk of Council, and shall bear the seal of the City under the following words:

A) This is to certify that this is the Official (Zoning or Wellhead Protection Area) Map referred to in Section 1103.00 of Zoning Ordinance No. 7503 of the City of Hamilton, Ohio.

The date of the adoption of Ordinance No. 7503, together with all amendments thereto affecting the Official Zoning Map or the Wellhead Protection Area Map shall also be placed on the each of the aforesaid official Maps.

(2) If, in accordance with the provisions of the Zoning Ordinance No. 7503, and all amendments thereto, and Chapter 713, Ohio Revised Code, changes are made in Use District or Subdistrict boundaries or other matter portrayed on the Official Zoning Map or the Wellhead Protection Area Map, such changes shall be made thereon promptly after the amendment has been approved by the City Council, together with an entry on each Map as follows: "By Ordinance No. _____ adopted on _____ by the City Council, the following change or changes were made in the Official (Zoning Map or Wellhead Protection Area) Map: (description of change)", which entry shall be signed by the Mayor and attested by the City Clerk.

(3) Any unauthorized change of the Official Zoning Map or the Official Wellhead Protection Area Map of whatever kind by any person or persons shall be considered a violation of this Zoning Ordinance No. 7503 and punishable under Section 1186.00 herein.

SECTION III: That the Section 1103.52 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1103.52 Subdistricts. The following Subdistricts may be established within the Use Districts set forth in 1103.51 by legislative action of the Council of the City of Hamilton:

Sec. 1103.52.1 **Historic Preservation Subdistrict.** A Historic Preservation Subdistrict may be created in any Use District and shall be designated by the suffix AHD≅ added to the symbol of the

parent Use District.

Sec. 1103.52.2 **Wellhead Protection Area Subdistrict.** Specific areas shall be delineated on the Official Wellhead Protection Area Map for the protection of groundwater resources. Said areas shall encompass certain territory and shall be identified as one of the following three, separate time-of-travel zones. Each time-of-travel zone shall be specifically delineated on the Wellhead Protection Area Map and shall be designated by one of the suffixes listed below, which applicable suffix shall be added to the symbol of the parent Use District:

- (A) TOT-1 One-Year Time-of Travel Zone
- (B) TOT-5 Five-Year Time-of Travel Zone
- (C) TOT-10 Ten-Year Time of Travel Zone

SECTION IV: That Section 1108.00 of the Zoning Ordinance No. 7503 is hereby supplemented by adding thereto the following new definitions which shall apply to the provisions herein relating to the protection of groundwater:

BEST MANAGEMENT PRACTICES (BMP): This term, as it applies to Wellhead Protection, refers to schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the environment. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills, and leaks.

BUSTR: Bureau of Underground Storage Tank Regulations.

CERCLA: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., Pub. L. 96-510, December 11, 1980), as amended, including as amended, by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613). All references to CERCLA within this regulation are meant to indicate CERCLA, as amended.

CITY: The City of Hamilton, a municipal corporation, in the State of Ohio, acting by and through its City Council and any of its authorized employees or designees.

EXISTING FACILITY or EXISTING STORAGE UNIT: This term, as it applies to Wellhead Protection, refers to any facility or regulated substance storage unit in operation or for which construction commenced on or before the effective date hereof. Construction of a facility or regulated substance storage unit has commenced if the owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either:

- (1) A continuous on-site, physical construction program has begun; or
- (2) The owner or operator has entered into contractual obligations for physical construction of the facility or regulated substance storage unit which cannot be canceled or modified without substantial loss.

FACILITY: This term, as it applies to Wellhead Protection, refers to all contiguous land and related structures, appurtenances, and improvements on land with the same facility operator. A facility may consist of several operations. For these purposes, contiguous land shall include land separated by a public right-of-way so long as such land would otherwise be contiguous. The term Facility includes all principal and accessory uses, including residential uses.

FACILITY OPERATOR: This term, as it applies to Wellhead Protection, refers to the person or designee in possession or control of a facility or regulated substance storage unit,

regardless of whether such person is the owner, lessee, or other possessor. The term also includes contractors or site managers at construction sites who are responsible for the general management of regulated substances located on site.

GROUNDWATER: All the water naturally occurring beneath the surface of the ground, excluding those waters in underground piping for water, wastewater, and/or storm water distribution/collection systems.

NEW FACILITY or NEW STORAGE UNIT: This term, as it applies to Wellhead Protection, refers to any facility or regulated substance storage unit beginning operation after the effective date of these provisions.

OHIO EPA: The State of Ohio Environmental Protection Agency.

PERMANENT: This term, as it applies to Wellhead Protection, refers to more than ninety (90) consecutive days.

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest as defined in Section 2(t) of the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 100-64, 100-464, to 100-526 and 100-532); and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. This term shall include all fungicides, insecticides, nematocides, or other substances used for the control of pests.

PRINCIPAL: This term, as it applies to Wellhead Protection, refers to the primary, predominant, or foremost use or activity at a property, establishment, building, structure or facility.

PROCESS: This term, as it applies to Wellhead Protection, refers to the incorporation of a regulated substance into a product. Includes making mixtures, repackaging, or using a regulated substance as a feedstock, raw material, or starting material for making another chemical.

RCRA: The Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.), as amended.

REGULATED SUBSTANCES: Those substances regulated under the Wellhead Protection Program as identified in Chapter 940 of the Hamilton Codified Ordinances.

REGULATED SUBSTANCE STORAGE UNIT: This term, as it applies to Wellhead Protection, refers to any underground storage tank, aboveground storage tank, drum, carboy, or other container used for the storage of one or more regulated substance(s), including silo, bag, tank wagon, box, glass, cylinder, tote bin, and truck body, rail car, or tanker when used for the permanent or temporary storage of regulated substances.

RELEASE: This term, as it applies to Wellhead Protection, refers to the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of regulated substances upon or into any land or water. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems or units and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" when used and applied herein does not include the following:

- (A) Disposal, in accordance with all applicable legal requirements and in accordance with the requirements of RCRA regulations, of hazardous wastes in a facility that has received and maintained all necessary legal approvals for that purpose;
- (B) Disposal or release of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid

municipal, state, or federal permit if such permits are required by applicable environmental laws;

- (C) Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- (D) Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by state or county health departments;
- (E) Any discharge of a petroleum substance in a quantity less than twenty-five (25) gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body; or
- (F) Any discharge of hazardous materials listed in SARA Title III or CERCLA when the discharge is less than twenty-five (25) pounds within a twenty-four (24) hour period in the one (1) and five (5) year time-of-travel zone, or less than one hundred (100) pounds within a twenty-four (24) hour period in the ten (10) year time-of-travel zone; or
- (G) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under best management practices as indicated by soil tests, the Ohio State University Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the Ohio Department of Agriculture.

REPLACEMENT: This term, as it applies to Wellhead Protection, refers to the physical removal of a regulated substance storage unit for installation of a new regulated substance storage unit.

TEMPORARY: This term, as it applies to Wellhead Protection, refers to a period of ninety (90) consecutive days or less. Storage of regulated substances and individual storage units containing such substances that are used on site as part of regular business operations are not considered temporary storage.

TIME OF TRAVEL ZONE (TOT): This term, as it applies to Wellhead Protection, refers to the advective travel time for water to flow through an aquifer and reach a well or well field.

UNDERGROUND STORAGE TANK (UST): This term, as it applies to Wellhead Protection, refers to one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. For the purposes herein, the term does not include:

- (A) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968", 82. Stat, 720, 49 U.S.C.A. 2001, as amended;
- (B) Surface impoundments, pits, ponds, or lagoons;
- (C) Storm or waste water collection systems;
- (D) Flow-through process tanks;
- (E) Septic tanks;

- (F) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated; or
- (G) Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations.

USE OR OTHERWISE USE: This term, as it applies to Wellhead Protection, refers to the handling, transfer, processing, packaging, treatment, emission, discharge or disposal of regulated substances at a facility.

WELLHEAD PROTECTION AREA (WHPA): The surface and subsurface areas supplying water to wells or well fields through which contaminants are likely to move and reach such wells or well fields. The Wellhead Protection Area includes the one (1), five (5), and ten (10) year time-of-travel zones.

WELLHEAD PROTECTION PROGRAM (WHPP): A program established by Section 1428 of the Safe Drinking Water Act of 1986 (Public Law 93-523) designed to minimize the potential for contamination of groundwater being used as a source of public drinking water.

SECTION V: That Section 1109.30 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1109.30 NON-CONFORMING USES OF LAND

- (A) Where, at the effective date of the adoption of, or amendment to, the provisions set forth herein, lawful use of land exists that is no longer permissible under the provisions of the Zoning Ordinance No. 7503 as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to provisions of this Chapter.
- (B) Any non-conforming use of land, building, or regulated substance storage unit existing as of the effective date of adoption of, or amendment to, the provisions set forth herein and which operates within a Wellhead Protection Area Time-of-Travel Zone is permitted to continue operation as a non-conforming existing land use, building, or regulated substance storage unit provided it remains otherwise lawful; complies with the provisions of Chapter 940 of the Hamilton Codified Ordinances which apply to existing facilities; and subject to provisions of this Chapter.
- (C) An existing use made non-conforming solely by application of the Wellhead Protection provisions set forth herein, including those in Section 1128, shall be treated as non-conforming only as to those uses prohibited by these Wellhead Protection provisions. As to existing uses not prohibited or otherwise regulated by These Wellhead Protection provisions, those uses remain conforming such that they may be expanded or otherwise altered without violation of this Charter Code.

SECTION VI: That the Hamilton Zoning Ordinance No. 7503 is hereby supplemented by adding thereto new Chapter 1128 to be and read as follows:

**CHAPTER 1128
WELLHEAD PROTECTION AREA REGULATIONS**

Sec. 1128.10 **PURPOSE**: In addition to the objectives of the Comprehensive Zoning Ordinance and Regulations as set forth in Section 1102.20, it is the purpose of this Chapter to regulate land uses within the Wellhead Protection Area of the City of Hamilton in order to safeguard the public health, safety, and welfare of persons and property by protecting designated groundwater

supplies from degradation resulting from the improper storage, handling, or discharge of regulated substances in and around existing and future well fields and their recharge areas and to promote the economic viability of the City of Hamilton and to balance the protection of groundwater with the promotion of the economy of the City. Specifically the purposes of these regulations are:

- (A) To prevent the creation or establishment of non compatible land uses which have the potential to degrade or otherwise negatively impact groundwater resources and thus, impair or destroy the utility of the Great Miami Buried Valley Aquifer, and the public investment therein,
- (B) To reduce the risk of contamination of groundwater by managing development, land use, and commercial activities within identified groundwater protection zones of the City of Hamilton,
- (C) To assist in the implementation of policies and recommendations and to cooperate with present and future groundwater users in southwest Butler County and northern Hamilton County who receive water from one of six public and private water suppliers in the Hamilton to New Baltimore area, thereby preserving groundwater resources among these water suppliers and their host communities.
- (D) To preserve and enhance the quality of Hamilton's environment.
- (E) To promote economic health of the City through balancing protection of groundwater with promotion of business and community interests.

Sec. 1128.20

WELLHEAD PROTECTION AREA (WHPA): Certain areas of the City of Hamilton are hereby delineated and zones are hereby established for the protection of groundwater resources and shall be collectively referred to as the Wellhead Protection Area (WHPA). A map of the WHPA shall be kept on file in the offices of the City Planning Department and the City Clerk. The requirements of Chapter 1128 are hereby superimposed upon, and are in addition to, the requirements of the underlying Zoning Use District contained within the applicable Time-Of-Travel Zones. The Wellhead Protection Area shall be comprised of the following zones:

Sec. 1128.21

One-Year Time-Of-Travel (TOT) Zone

Sec. 1128.211

Location. The one-year TOT zone is that area around the well or well field from which groundwater will be drawn for use in a one- year time period. The one-year TOT zone is hereby established in those areas of the City of Hamilton as delineated on the Wellhead Protection Area Map.

Sec. 1128.212

Permitted Uses Uses within TOT-1 zone include those uses permitted by each Use District underlying the TOT-1 zone, unless prohibited herein.

Sec. 1128.213

Prohibited Uses. The establishment of the

following new activities/land uses is prohibited in the one-year TOT zone as of the effective date of this provision:

- (A) Commercial junk yards;
- (B) Commercial sanitary/solid waste landfills;
- (C) The disposal of shingles, asphalt, and/or lead-based or lead containing materials in an unlicensed landfill;
- (D) The manufacturing, processing, or recycling of regulated substances as the principal activity where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (E) Commercial establishments for motor vehicle repair/service shops and/or body repair where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (F) Trucking or bus terminals where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (G) Animal feedlots exceeding one thousand (1,000) animal units;
- (H) Primary metal product industries where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (I) Metal plating, polishing, etching, engraving, anodizing, or similar processes where storage, handling, or use of a regulated substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (J) Lawn, garden, pesticide, and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides, and

other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored on site exceed fifty-five (55) gallons aggregate for liquid materials or four hundred forty (440) pounds aggregate for dry weights;

- (K) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars not meeting conditions specified in Chapter 940 of the Hamilton Codified Ordinances where storage of the Regulated Substance(s) exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (L) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression;
- (M) Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block;
- (N) Dry cleaning facilities with on-site dry cleaning service Substance(s) exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (O) Installation of underground storage tanks except as permitted in Chapter 940 of the Hamilton Codified Ordinances; and
- (P) Temporary or permanent storage of regulated substances other than vehicle fuels, vehicle lubricants, and fuel for building and/or process heating in new underground storage tanks (USTs), except as permitted in Chapter 940 of the Hamilton Codified Ordinances.

Sec. 1128.22 Five-Year Time-Of-Travel (TOT) Zone

Sec. 1128.221 Location. The five-year TOT zone (TOT-5) is that area around the well or well field located outside the one-year TOT zone but within the boundaries of the five-year TOT zone from which groundwater will be drawn in a five-year time period. The five-year TOT zone is hereby established in those areas of the City of Hamilton as delineated on the Wellhead Protection Area Map.

Sec. 1128.222 Permitted Uses. Uses within TOT-5 zone

include those uses permitted by each Use District underlying the TOT-5 zone, unless prohibited herein.

Sec. 1128.223

Prohibited Uses. The establishment of the following new activities/land uses is prohibited in the five-year TOT zone as of the effective date of this provision:

- (A) Commercial junk yards;
- (B) Commercial sanitary/solid waste landfills;
- (C) The disposal of shingles, asphalt, and/or lead-based or lead containing materials in an unlicensed landfill;
- (D) Manufacturing, processing, or recycling of regulated substances as the principal activity where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (E) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars not meeting the conditions specified in Chapter 940 of the Hamilton Codified Ordinances where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (F) Use of oil, waste oil or similar liquid petroleum type products for dust suppression;
- (G) Installation of underground storage tanks, except as permitted in Chapter 940 of the Hamilton Codified Ordinances.
- (H) Temporary or permanent storage of regulated substances other than vehicle fuels, vehicle lubricants, and fuel for building and/or processing heat in new underground storage tanks, except as permitted in Chapter 940 of the Hamilton Codified Ordinances.

Sec. 1128.23

Ten-Year Time-Of-Travel (TOT) Zone

Sec. 1128.231

Location. The ten-year TOT zone (TOT-10) is that area around the well or well field located outside the one-year and five-year TOT zones

but within the boundaries of the ten-year TOT zone from which groundwater will be drawn in a ten-year time period. The ten-year TOT zone is hereby established in those areas of the City of Hamilton as delineated on the Wellhead Protection Area Map.

Sec. 1128.232 Permitted Uses: Uses within TOT-10 zone include those uses permitted by each Use District underlying the TOT-10 zone, unless prohibited herein.

Sec. 1128.233 Prohibited Uses. The establishment of the following new activities/land uses is prohibited in the ten-year TOT zone as of the effective date of this provision:

- (A) Commercial sanitary/solid waste landfills;
- (B) The disposal of shingles, asphalt, and/or lead-based or lead containing materials in an unlicensed landfill;
- (C) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars when not meeting conditions specified in Chapter 940 of the Hamilton Codified Ordinances where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights;
- (D) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression;
- (E) Installation of underground storage tanks, except as permitted in Chapter 940 of the Hamilton Codified Ordinances.
- (F) Temporary or permanent storage of regulated substances other than vehicle fuels, vehicle lubricants, and fuel for building and/or processing heat in new underground storage tanks, except as permitted in Chapter 940 of the Hamilton Codified Ordinances.

Sec. 1128.24 Conditional Uses Applicable to all Wellhead Protection Time- of-Travel (TOT) Zones. The following land uses/activities will only be permitted within specified TOTs based on case-by-case review by the Board of Zoning Appeals. Each case must be submitted as a variance request to the Board of Zoning Appeals in accordance with local requirements:

- (A) Use of fly ash as fill material as described in Section 1128.213 (m) at any facility or property located in the ten-year TOT zone. This prohibition does not apply where fly ash is used as a component in cement, concrete or cinderblock.
- (B) Lawn, garden, pesticide, and agricultural services, located in the five-year TOT zone, which have on-site bulk mixing or blending of fertilizers, pesticides, and other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored on site meet or exceed five hundred (500) gallons aggregate for liquid materials or four thousand (4000) pounds aggregate for dry weights.

Sec. 1128.25

Uses Exempted from Regulation - Applicable to Wellhead Protection Time-of-Travel (TOT) Zones:

Sec. 1128.251

Full Exemptions: the following activities, substances, or storage units are exempt from regulation under this provision when located within the WHPA:

- (A) Exemptions in all TOT zones:
 - (1) Laboratory activities;
 - (2) Chemical storage tanks containing pressurized gases such as chlorine, propane, hydrogen, and nitrogen;
 - (3) Household use of regulated substances packaged for consumer use in original pre-packaged containers;
 - (4) Excavation or removal of earth materials;
 - (5) Office and maintenance/janitorial use of regulated substances. This exemption does not apply to hydrocarbon or halogenated hydrocarbon solvents;
 - (6) Oils and fluids within electrical utility transformers/switches;
 - (7) Materials present as a solid inside of a manufactured item; and
 - (8) Transport of Regulated Substances in trucks, trailers, tankers, or rail cars to facilities in and through the WHPA are exempt provided the Regulated Substances are fueling the transporting vehicle, or the transporting vehicle is in continuous transit, making a delivery, or is stopped for a period of time not to exceed twenty-four (24) hours.
- (B) Additional full exemption only applicable to specific TOT zones:
 - (1) USTs in the ten-year TOT zone when used exclusively for the storage of

Grade 1 or Grade 2 heating fuels and diesel fuel.

Sec. 1128.252

Limited Exemption:

- (A) Oil/water separator underground storage tanks, and any underground storage tank (UST) system:
 - (i) in the process of being installed; or
 - (ii) in the process of receiving a permit to install as of the effective date of this ordinance, are exempt from the requirements of paragraphs (O) and (P) of Section 1128.213, (G) and (H) of Section 1128.223, or (E) and (F) of Section 1128.233.

SECTION VII: That Section 1160.30 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1160.30

HEARINGS, APPEALS; NOTICES.

- (A) General: Appeals to the Board may be taken by any person aggrieved by any Officer, Department, Board or Bureau of the City of Hamilton affected by a decision of the Building and Zoning Administrator or the Historic Design Review Board, but in the latter case only in connection with its issuance or refusal to issue a Certificate of Appropriateness. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule, by filing with the Building and Zoning Administrator and with the Board of Zoning Appeals a Notice of Appeal, specifying the grounds thereof. The Building and Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action was taken.
- (B) Wellhead Protection: All issues pertaining to decisions by the Building and Zoning Administrator regarding zoning regulations/requirements for Wellhead Protection Area shall remain under the jurisdiction the Board of Zoning Appeals (BZA) as provided for in this Chapter except that, in addition, the following shall apply:
 - (1) **Recommendation from the Wellhead Protection Appeals Advisory Board.** Before the BZA grants any variance or appeal relative to a Wellhead Protection Area, the variance or appeal request shall first be reviewed by the Wellhead Protection Appeals Advisory Board (WHPAAB) to ensure that the request, if granted, will not present a contamination threat to groundwater. The WHPAAB, as established under Chapter 940 of the Hamilton Codified Ordinances, shall provide a recommendation on the variance or appeal request to the Board of Zoning Appeals. In doing so, the WHPAAB may include with the recommendation any such alternatives or modifications to the request as necessary to minimize the potential for groundwater contamination. The WHPAAB shall have thirty (30) days from receiving a variance or appeal request to make a recommendation to the

Board of Zoning Appeals. The thirty-day period shall be inclusive within, and not in addition to, the allowed time frame for Board of Zoning Appeals review.

SECTION VIII: That Section 1180.10 of the Zoning Ordinance No. 7503 is hereby supplemented by adding thereto new subparagraph (b) to be and read as follows:

Sec. 1180.10 Procedure.

- (b) Procedure for proposals respecting changes/redelineation of WHPA Designation: Any change in the boundary of a WHPA resulting from redelineation of a WHPA shall be effective after approval of the redelineation by means of a Zoning Amendment as provided for in Chapter 1180.00 herein. Public notice of the change shall be provided in accordance with requirements for the City of Hamilton but shall include no less than notification through publication of the change for one (1) day in at least one (1) newspaper with general circulation in the community; and notification via first class mail to those regulated facility operators in the pre-existing WHPA whose location in a TOT zone has changed as a result of the redelineation, and any non-residential property owners in the newly delineated portions of the updated WHPA. Said notification shall be mailed, via first class mail, no less than thirty (30) days prior to the public hearing date and the notification shall be in the form of a letter stating the results of the redelineation and any subsequent change in the facility's regulatory status.
- (1) Where an existing facility required to comply with the provisions set forth herein is no longer located in a WHPA as a result of the redelineation, the facility is no longer subject to compliance with Chapter 940 and Chapter 1128 of the Hamilton Codified Ordinances.
 - (2) Any facility previously located outside the boundary of the WHPA that is located inside the boundary of the WHPA as a result of the redelineation must be registered in accordance with Chapter 940 of the Hamilton Codified Ordinances and must comply with those provisions required of existing facilities for the TOT zone in which the facility is located as applicable and in accordance with the time frames specified for those applicable provisions.
 - (3) Any registered facility whose classification within a TOT zone is changed to a different TOT zone as a result of the redelineation must submit an amended facility registration to the Building and Zoning Administrator or his designee in accordance with Chapter 940 of the Hamilton Codified Ordinances and must comply with those provisions required of existing facilities as applicable for the new TOT zone in which that facility is now located in accordance with the time frames specified for those applicable provisions.

SECTION IX: That Section 1186.00 of the Zoning Ordinance No. 7503 is hereby amended to be and read as follows:

Sec. 1186.00 Violation and Penalty.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of the Zoning Ordinance No. 7503, and all amendments thereto, shall be fined not less than fifty (\$50.00) dollars or more than one hundred (\$100.00) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Ordinance No. OR98-10-102 (cont'd)

Adopted October 14, 1998

SECTION X: That Sections 1102.20, 1103.00, 1103.52, 1109.30, 1160.30 and 1186.00 of the Zoning Ordinance No. 7503, as they existed before the enactment of this ordinance, be and the same **are hereby repealed**.

SECTION XI: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: October 14, 1998

Thomas E. Nye
Mayor

Effective Date: November 13, 1998

ATTEST: Linda S. Kuntz
City Clerk

CERTIFICATE

I, Linda A. Landi, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. OR98-10-102 was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: 10/22/98

Linda A. Landi, City Clerk
CITY OF HAMILTON, OHIO