

Passed 9/14/98

**EXHIBIT "A"**  
**CHAPTER 1192**  
**WELLHEAD PROTECTION PROGRAM**

**1192.01 DEFINITIONS.**

The following terms shall have the following meanings within the context of this Chapter:

- (a) ABOVEGROUND STORAGE TANK (AST).  
This term, as it applies to Wellhead Protection, refers to any non-portable container and supporting structure, excluding all pipes connected thereto, which is used to store an accumulation of Regulated Substances and in which more than 90 percent of the final volume of the storage container is at or above the final ground elevation.
- (b) 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.
- (c) BUSTR  
This term, as it applies to Wellhead Protection, refers to the Bureau of Underground Storage Tank Regulations.
- (d) CERCLA  
This term, as it applies to Wellhead Protection, refers to 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 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 by SARA.
- (e) CITY  
This term, as it applies to Wellhead Protection, refers to the City of Fairfield and any of its designated agents.
- (f) DRY WELL  
This term, as it applies to Wellhead Protection, refers to a type of drainage well used for the underground disposal of storm water runoff from paved areas, which include parking lots, streets, highways, residential subdivisions, and building rooftops; agricultural areas; and industrial areas.
- (g) EPCRA  
This term, as it applies to Wellhead Protection, refers to the Emergency Planning and Community Right-To-Know Act of 1986, also known as the Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, 42 U.S.C. 960).
- (h) 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 of this Chapter. Construction of a Facility or Regulated Substance storage unit has commenced if:

- (1) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either
  - (2) A continuous on-site, physical construction program has begun; or 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.
- (i) EXTREMELY HAZARDOUS SUBSTANCE  
This term, as it applies to Wellhead Protection, refers to any substance listed by the United States Environmental Protection Agency under 40 CFR Part 355 appendixes A and B; and any substance listed by the commission pursuant to divisions (B)(4) and (C)(5) of Section 3750.02 of the Ohio Revised Code.
- (j) 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.
- (k) 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.
- (l) GREAT MIAMI BURIED VALLEY AQUIFER  
This term, as it applies to Wellhead Protection, refers to a regionally extensive groundwater aquifer system providing drinking water to communities throughout central and southwest Ohio. The Great Miami Buried Valley Aquifer is a designated Sole Source Aquifer under the federal Safe Drinking Water Act, signifying a protected status as a valued natural resource.
- (m) GROUNDWATER  
This term, as it applies to Wellhead Protection, refers to 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.
- (n) HAMILTON TO NEW BALTIMORE GROUNDWATER CONSORTIUM  
This term, as it applies to Wellhead Protection, refers to a consortium of six public and industrial groundwater suppliers and users in the Hamilton to New Baltimore area of Butler and Hamilton Counties, Ohio. Members are: Champion International, City of Cincinnati, The City of Fairfield, The City of Fairfield, Southwest Regional Water District, Southwestern Ohio Water Company, and their successors.
- (o) IMPERVIOUS SURFACE  
This term, as it applies to Wellhead Protection, refers to any surface which prevents the absorption of Regulated Substances into surrounding soils or other pervious surface areas, and which will not react with the Regulated Substance being stored in such a way that the surface will deteriorate and

no longer be impervious.

(p) 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 this chapter.

(q) NON-CONFORMING FACILITY or NON-CONFORMING STORAGE UNIT

This term, as it applies to Wellhead Protection, refers to any existing Facility or Regulated Substance storage unit which, as of the effective date of this ordinance, would otherwise be prohibited within a designated TOT.

(r) OAC

The Ohio Administrative Code.

(s) OHIO EPA

The Ohio Environmental Protection Agency.

(t) PERMANENT

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

(u) PESTICIDE

This term, as it applies to Wellhead Protection, refers to (1) 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 (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term shall include all fungicides, insecticides, nematocides, or other substances used for the control of pests.

(v) PRIMARY CONTAINMENT

This term, as it applies to Wellhead Protection, refers to the first level of containment, i.e., the inside portion of a container or storage device which comes into immediate contact on its inner surface with a Regulated Substance.

(w) PRINCIPAL

This term, as it applies to Wellhead Protection, refers to the primary, predominant, or foremost use or activity at a Facility.

(x) 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.

(y) RCRA

This term, as it applies to Wellhead Protection, refers to the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.), as amended.

(z) REGULATED SUBSTANCES

This term, as it applies to Wellhead Protection, refers to those substances identified in Subsection 1192.10(a) of this Chapter which are regulated under the Wellhead Protection Program.

(aa) REGULATED SUBSTANCE STORAGE AREA

This term, as it applies to Wellhead Protection, refers to that area where Regulated Substances are stored. A Regulated Substance storage area can include single or multiple Regulated Substance storage units.

(bb) 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.

(cc) 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 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 in this Chapter does not include the following:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) 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
- (6) 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
- (7) 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.

(dd) 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.

(ee) RESTRICTED USE PESTICIDE

This term, as it applies to Wellhead Protection, refers to any pesticide or pesticide use classified by the administrator of the United States Environmental Protection Agency for use only by a certified applicator or by an individual working under the direct supervision of a certified applicator.

(ff) SECONDARY CONTAINMENT

This term, as it applies to Wellhead Protection, refers to containment external to and separate from primary containment designed to contain a release from a primary containment unit. Secondary containment may include, but is not limited to, double walls, dikes, vaults, or impervious liners (both natural and synthetic).

(gg) TEMPORARY

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

(hh) 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 wellfield.

(ii) 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 10% or more beneath the surface of the ground. For the purposes of this Chapter, the term does not include:

- (1) 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;
- (2) Surface impoundments, pits, ponds, or lagoons;
- (3) Storm or waste water collection systems;
- (4) Flow-through process tanks;
- (5) Septic tanks;
- (6) 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
- (7) Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations.

(jj) USE or OTHERWISE USE

This term, as it applies to Wellhead Protection, refers to handling, transferring, processing, packaging, treating, emitting, discharging, or disposal of Regulated Substances at a Facility.

(kk) WELLFIELD

A tract of land that contains one or a number of wells (wellheads) for use in public water supplies.

(ll) WELLHEAD

An individual well for supplying water.

(mm) WELLHEAD PROTECTION AREA (WHPA)

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

(nn) 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.

**1192.02 DESIGNATION OF PROTECTION AREAS.**

(a) **WELLHEAD PROTECTION AREAS ESTABLISHED**

- (1) Certain areas of the City of Fairfield are hereby delineated into the following districts for the protection of groundwater resources and shall be collectively referred to as the "Wellhead Protection Area" (WHPA). A map of the WHPA (WPPA map) is on file in the City Planning Department and the office of the Clerk of Council, which map is hereby incorporated herein by reference.
- (2) One (1) Year Time-of-Travel (TOT) Zone. The one (1) year TOT zone is that area around the well or wellfield from which groundwater will be drawn for use in a public water supply in a one (1) year time period. The one (1) year TOT is hereby established in those areas of the City of Fairfield as illustrated in Exhibit A of this Chapter.
- (3) Five (5) Year Time-of-Travel (TOT) Zone. The five (5) year TOT zone is that area located outside the one (1) year TOT zone but within the boundaries of the five (5) year TOT zone from which groundwater will be drawn for use in a public water supply in a five (5) year time period. The five (5) year TOT is hereby established in those areas of the City of Fairfield as illustrated in Exhibit A of this Chapter.
- (4) Ten (10) Year Time-of-Travel (TOT) Zone. The ten (10) year TOT zone is that area located outside the one (1) and five (5) year TOT zones but within the boundaries of the ten (10) year TOT zone from which groundwater will be drawn for use in a public water supply in a ten (10) year time period. The ten (10) year TOT is hereby established in those areas of the City of Fairfield as illustrated in Exhibit A of this Chapter.

(b) **REDELINEATION OF THE WHPA**

- (1) 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 Fairfield City Council. Public notice of the change shall be provided in accordance with requirements for the City of Fairfield but shall include no less than the following:
  - A. Notification through publication of the change for one (1) day in at least one (1) newspaper with general circulation in the community; and
  - B. Notification via first class mail to those registered 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.

(c) **IMPACT ON WHPA FACILITIES**

- (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 the requirements of this Chapter.
- (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 Subsection 1192.04(d) of this Chapter 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 Planning Director or Designee in accordance with Subsection 1192.04(d)(7) of this Chapter 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.

(d) **PROHIBITIONS IN THE WELLHEAD PROTECTION AREA**

- (1) One (1) Year TOT Prohibitions. Establishment of the following new activities/land uses is prohibited in the one (1) year TOT as of the effective date of this Chapter:
  - A. Commercial junk and salvage 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 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 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 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 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 Subsection 1192.05(b)(3) of this Chapter 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 where storage or use of a Regulated 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 Subsection 1192.06(d) of this Chapter; 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 Subsection 1192.06(d) of this Chapter.
- (2) Five Year TOT Prohibitions. Establishment of the following new activities/land uses is prohibited in the five-year TOT zone as of the effective date of this chapter:
- A. Points A. - D., K., L., O. and P. in Subsection 1192.02(d)(1).
- (3) Ten Year TOT Prohibitions. 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. Points B., C., K., L., O., and P. in Subsection 1192.02(d)(1).
- (4) 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 Section 1137.05 of these Codified Ordinances:
- A. Use of fly ash as fill material as described in Subsection 1192.02(d)(1)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 cinder block.
  - 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 (4,000) pounds aggregate for dry weights.



(e) **GENERAL APPLICABILITY**

- (1) Unless specified otherwise, all provisions of this Chapter apply to any Facility Operator of any real property or business in the City of Fairfield when storing or otherwise using Regulated Substances as defined in Subsection 1192.10(a) of this Chapter, or conducting any activity regulated under Section 1192.07 herein, and located within a Wellhead Protection Area as established in Subsection 1192.02(a) of this Chapter. It is the responsibility of the Facility Operator to determine the applicability of this Chapter to his or her property and/or business, and to comply with all requirements established in this rule as applicable to the Facility. Failure to do so shall not excuse any violations of this Chapter.
- (2) **Limited Exemptions.** The following are exempt from the provisions set forth herein except for compliance with Subsections 1192.04(d) through 1192.04(i) of this Chapter:
  - A. Indoor storage/use of Regulated Substance(s) in an area capable of fully containing a total release of the Regulated Substance(s) within the facility or draining the release to a wastewater treatment system capable of treating the released substance(s). Septic tank systems do not qualify as a wastewater treatment system under this exemption;
  - B. Sale/storage of Regulated Substances packaged as consumer products in original containers when the aggregate quantity on site meets or exceeds those thresholds established in Subsection 1192.10(a)(3) of this Chapter;
  - C. Current hazardous waste storage areas at RCRA permitted facilities;
  - D. Radioactive materials regulated by the U.S. Nuclear Regulatory Commission;
  - E. Aboveground storage tanks in the five (5) year TOT used exclusively for the storage of Grade 1 or Grade 2 heating fuels and diesel fuel; and
  - F. Oil/water separator underground storage tanks.
- (3) **Full Exemptions.** The following uses of Regulated Substances are exempt from the provisions set forth herein.
  - A. Laboratory activities;
  - B. Chemical storage tanks containing pressurized gases such as chlorine, propane, hydrogen, and nitrogen;
  - C. Household use of Regulated Substances packaged for consumer use in original pre-packaged containers;
  - D. Excavation or removal of earth materials;
  - E. Office and maintenance/janitorial use of Regulated Substances packaged as consumer products. This exemption does not apply to hydrocarbon or halogenated hydrocarbon solvents;
  - F. Oils and fluids within electrical utility transformers/switches;
  - G. Materials present as a solid inside of a manufactured item;
  - H. Transport of Regulated Substances in trucks, trailers, tankers, or rail cars to facilities through the Wellhead Protection Area, 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;
  - I. Aboveground and underground storage tanks in the ten (10) year TOT used exclusively for the storage of Grade 1 or Grade 2 heating fuel and diesel fuel; and
  - J. Sale/storage of Regulated Substances packaged as consumer products in original

containers when the aggregate quantity on site is less than those thresholds established in Subsection 1192.10(a)(3) of this Chapter.

### **1192.03 REGULATED SUBSTANCES.**

#### **(a) REGULATED SUBSTANCES**

- (1) Defined. Regulated Substances shall be those substances listed in Subsection 1192.10(a)(1) herein when storage or use at a facility at any time of the year meets or exceeds those thresholds specified in Subsection 1192.10(a)(2). A Facility Operator may, at their choice, calculate the quantity of Regulated Substances stored or used on site as follows:
  - A. Maximum Amount at Any One Time. The Facility Operator may report the quantity of Regulated Substances stored or otherwise used on site as the maximum amount found on site at any one time during the course of a year. Where there are seasonal fluctuations in Regulated Substance use, the amount should be based on storage or use of Regulated Substances during peak times of the year; or
  - B. Monthly Daily Average. The Facility Operator may calculate the daily average of Regulated Substance storage or use on site over the course of a month. The Facility Operator must calculate this average using the anticipated quantity of Regulated Substances storage or use during peak months at the facility.

#### **(b) EXEMPTIONS FROM THE REGULATED SUBSTANCE LISTING**

- (1) A substance listed in Subsection 1192.10(a)(1) may be partially or fully exempt from regulation under this Chapter if use or storage of the Regulated Substance is exempted under Subsections 1192.02(e)(2) or (3) of this Chapter, or if the Facility Operator can provide proper documentation to the Planning Director or Designee that a Regulated Substance does not present a threat to groundwater due to the nature of the substance. Information from the substance manufacturer or other qualified, verifiable source indicating that the substance does not present a threat to groundwater shall be considered proper documentation.

#### **(c) ADDITIONS/DELETIONS TO THE REGULATED SUBSTANCE LIST**

- (1) The Planning Director or Designee reserves the right to designate additional substances or remove substances from the list of Regulated Substances in Subsection 1192.10(a)(1) as necessary for the protection of the groundwater resource. Public notice of changes to the Regulated Substance list shall be provided by the Planning Director or Designee in accordance with public notice requirements for the City of Fairfield but shall include no less than:
  - A. Notification of the intent to remove or add a Regulated Substance to the list via mail to all registered Facility Operators no later than thirty (30) days prior to action by the Planning Director or Designee;
  - B. Notification through publication of the change for one (1) day in at least one (1) paper with general circulation in the community; and
  - C. Notification via first-class mail to all registered Facility Operators no later than thirty (30) days after removal or addition of Regulated Substances to the list by the Planning Director or Designee.

## **1192.04 GENERAL PROVISIONS.**

### **(a) PURPOSE**

- (1) The purpose of this Chapter is to safeguard the public health, safety, and welfare of persons and property in the City of Fairfield by protecting designated groundwater supplies from degradation resulting from the improper storage, use, or discharge of Regulated Substances in and around existing and future wellfields and their recharge areas, and to promote the economic viability of the City of Fairfield by balancing the protection of groundwater with the promotion of the economy of the City.

### **(b) COMPLIANCE WITH EXISTING FEDERAL, STATE, AND LOCAL REGULATIONS**

- (1) Facility Operators subject to regulation under this Chapter must comply fully with all existing applicable federal, state, and local regulations in addition to any of the requirements established in this Chapter.

### **(c) CONTINUATION OF EXISTING NON-CONFORMING FACILITIES AND NON-CONFORMING USES OF LAND**

- (1) 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 Subsection 1192.02(d) of this Chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to provisions of this Chapter.
- (2) 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 and complies with the provisions of this Chapter which apply to existing facilities.
- (3) An existing use made non-conforming solely by application of the Wellhead Protection provisions set forth herein 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 Chapter.

### **(d) FACILITY REGISTRATION**

- (1) Registration. Facility registration is required once every two (2) years for any facility where on site storage or use of Regulated Substances meets or exceeds those quantities established in Subsection 1192.10(a)(2) of this Chapter, or for any activity identified as a regulated activity under Section 1192.07 of this Chapter. A Facility Operator may register the facility or, at the request of the Facility Operator, the Planning Director or Designee may register the facility. The Planning Director or Designee shall conduct any facility registration in the following manner

- A. The Planning Director or Designee shall provide written notice of the intent to register the facility no less than fourteen (14) days prior to the registration date;
- B. The registration shall be conducted at reasonable times during normal business hours. To help ensure accuracy of the registration and safety of the persons involved, the Facility Operator or designee must accompany the Planning Director or Designee during the registration;
- C. The registration will not unreasonably interfere with facility operations; and
- D. The scope of the registration will be limited to gathering information necessary to complete the registration required by this Section.

All facility registrations must be completed and, where applicable, submitted to the Planning Director or Designee within one hundred eighty (180) days of the date a property becomes subject to regulation under this Chapter, and by July 1 of every second year thereafter. A Facility Operator choosing to have their facility registered by the Planning Director or Designee must contact the Planning Director or Designee no less than ninety (90) days before a registration is due to ensure completion of the registration by the required due date.

- (2) Registration Requirements. Facility registration will include, but is not necessarily limited to, information on the following:

- A. Name, address, and phone number of the registered Facility;
- B. Facility Operator name and number;
- C. Emergency contact, address, and phone;
- D. Primary and, where applicable, secondary business activities at the Facility, including Standard Industrial Classification codes (if known) and a brief description of how Regulated Substances are used at the Facility;
- E. The types, quantity, and location of Regulated Substances stored or otherwise used on-site. Where the Regulated Substance is identified by a common trade name or a mixture, the primary chemical component(s) must be identified;
- F. The manner of Regulated Substance storage (i.e., ASTs, fifty-five (55) gallon drums, totes, etc.). AST registration will include information on current tank status, contents, volume, construction, and age;
- G. A general description of any secondary containment or other spill containment and/or spill prevention measures used at the Facility for Regulated Substance storage units or storage areas;
- H. A general description of Regulated Substance waste disposal methods. Where applicable, the Facility's hazardous waste generator identification number must be provided;
- I. Where applicable, location of any groundwater monitoring equipment on the Facility's property;
- J. Where applicable, the location of any dry wells on the Facility property; and
- K. Where applicable, the type of septic system used on site and type of waste treated.

Any person identified as the emergency contact for a Facility under Subsection 1192.04(d)(2)C. must have authority to provide additional information about the Facility and materials stored or otherwise used on site when requested and to authorize the use of response personnel, including hazardous materials contractors, in the event of a release at the Facility. The Facility Operator must notify the Planning Director or Designee of any change in name, phone number, and/or address of the emergency contact person no later than two (2) weeks

after any change.

- (3) Operator Signature. The Facility Operator must sign the completed facility registration. The Facility Operator's signature shall serve as acknowledgment of the accuracy of the registration and compliance with the following, where applicable:

- A. Storage Unit Inspections - compliant with Subsection 1192.05(b)(1)E.
- B. Development and implementation of a Spill Control Plan - compliant with Subsection 1192.05(g).

Any Facility Operator whose Facility is registered by the Planning Director or Designee must submit a copy of the signed registration to the Planning Director or Designee no later than two (2) weeks after the registration date.

- (4) Use of Existing Registration Information. Any Facility Operator required to register a Facility or Regulated Substance storage unit under another federal, state, or local program may submit a copy of that registration to the Planning Director or Designee to expedite the registration process. Any existing registration information should be presented to the Planning Director or Designee prior to or at the time of facility registration.

- (5) New Facility Registration. Any Facility subject to regulation under this Chapter that begins operation or commences conduct governed by this Chapter after the effective date of this Chapter must be registered in accordance with Subsection 1192.04(d)(1) no later than one hundred eighty (180) days after beginning operation.

- (6) Registration of Previously Exempt Facilities. Any previously exempt Facility that becomes subject to the requirements of this Chapter due to changes at the Facility must be registered in accordance with Subsection 1192.04(d)(1) no later than one hundred eighty (180) days after becoming subject to regulation under the Chapter. A previously exempt Facility becomes subject to regulation under this Chapter when:

- A. A new AST or UST system subject to regulation under this Chapter is installed at the Facility;
- B. There is a permanent change in the type and/or volume of Regulated Substances stored or otherwise used at the Facility that results in the storage or use of Regulated Substances in quantities meeting or exceeding the thresholds established in Subsection 1192.10(a)(2) and/or
- C. There is a change in the delineated TOTs as specified in Subsection 1192.02(b) of this Chapter.

- (7) Amending Existing Facility Registrations. A Facility Operator must amend an existing Facility registration, or may request that the Planning Director or Designee amend the registration, no later than sixty (60) days after any:

- A. Change in ownership or management of the Facility;
- B. Installation, return to service, or removal of an AST or UST system subject to regulation under this Chapter;
- C. Permanent on-site storage or use of a previously unregistered Regulated Substance in quantities meeting or exceeding the thresholds established in Subsection 1192.10(a)(2)

and/or

D. Change in the delineated TOTs as specified in Subsection 1192.02(b) of this Chapter.

And no later than ninety (90) days after:

E. Permanent cessation of regulated operations or storage of Regulated Substances as specified in Subsection 1192.04(f).

A Facility Operator choosing to have their facility registration amended by the Planning Director or Designee must contact the Planning Director or Designee no less than thirty (30) days before a registration is due to ensure completion of the registration within the allowed sixty (60) day time frame when meeting Subsections A. through D. above. The Facility Operator is responsible for amending a registration under the Subsection E. above.

(8) Registration of Multiple Facilities. Any person owning and/or operating more than one facility subject to regulation under this Chapter must register each regulated facility separately in accordance with the provisions of this Chapter.

(e) **TEMPORARY STORAGE OF REGULATED SUBSTANCES**

(1) Applicability. This Section applies to the temporary storage of Regulated Substances at new and existing non-residential facilities in the Wellhead Protection Area when the Regulated Substances:

- A. Are stored or otherwise used in quantities meeting or exceeding the quantity thresholds established in Subsection 1192.10(a)(2); and
- B. Do not meet any of the exemption criteria specified in Subsection 1192.05(e)(1).

(2) Conditions. Temporary storage subject to regulation under this Chapter must meet the following conditions when aboveground:

- A. The Regulated Substance storage unit(s) must meet the general container requirements specified in Subsections 1192.05(b)(1) through (3) of this Chapter; and
- B. When possible, the temporary storage unit(s) should be located in a non-hazardous area (i.e., where the unit(s) are not generally exposed to routine vehicular traffic, flammables, or other hazards).

Any Regulated Substance release meeting or exceeding the release notification criteria in Subsection 1192.04(g)(1) must be reported and remediated in accordance with Subsection 1192.04(g) of this Chapter.

(3) Temporary Storage Extensions. Temporary storage of Regulated Substances beyond ninety (90) days is permitted provided compliance with the following requirements.

- A. The Facility Operator must notify the Planning Director or Designee of the need to continue temporary storage of the Regulated Substance(s) prior to expiration of the temporary storage period. The Facility Operator shall submit notification to the Planning Director or Designee on a prescribed form supplied by the Planning Director or Designee at the request of the Facility Operator. The notification shall specify:

1. Facility name, address, and telephone;
2. Facility Operator name and twenty-four (24) hour emergency contact. Designation of an emergency contact must be done in accordance with Subsection 1192.04(d)(2);
3. Regulated Substance(s) temporarily being stored at the Facility;
4. The manner in which the Regulated Substances are stored; and
5. The anticipated date when temporary storage will cease.

B. The Regulated Substance continues to be stored in compliance with Subsections 1192.05(b)(1) through (3) when aboveground.

(f) **FACILITY CLOSURE**

- (1) **Applicability.** This Section applies to any non-residential Facility subject to regulation under this Chapter that becomes unoccupied or where operations are permanently discontinued for a period greater than ninety (90) consecutive days any time after the effective date of this Chapter. Facility Operators subject to compliance with any federal, state, or local facility closure program addressing the storage or handling of Regulated Substances at a closing facility are exempt from the requirements in this Section except for compliance with Subsection 1192.04(f)(3).
- (2) **Removal of All Regulated Substances.** Except in the case of seasonal discontinuation of operation, the Facility Operator must remove all Regulated Substances other than those used exclusively for heating, cooling, and providing electrical lighting for the premises from the property no later than ninety (90) days after the date the property initially became unoccupied or operation was permanently discontinued.
- (3) **Closure Notice.** Any Facility Operator permanently discontinuing operation of a Facility subject to regulation under this Chapter must submit an amended Facility registration to the Planning Director or Designee in accordance with Subsection 1192.04(d)(7). The amended Facility registration shall include the date on which operations will or have ceased; the current operator's new phone number and address; and the fate of Regulated Substances stored or otherwise used on site. Any Facility Operator required to submit a closure notification under any federal, state, or local closure program may copy the Planning Director or Designee on that notification in lieu of submitting an amended Facility registration.
- (4) **Facility Security.** Upon permanent closure of a facility, the Facility Operator must take reasonable steps to secure all Regulated Substance storage units or Regulated Substance storage areas against vandalism. Compliance with Subsections 1192.05(b)(1) through (3) and maintenance of all security measures implemented in accordance with this Section are required until all Regulated Substances are removed from the site.

(g) **REGULATED SUBSTANCE RELEASES**

- (1) **Release Notification Required.** Any release of a Regulated Substance within a Wellhead Protection Area, if such release:
  - A. originates from an underground storage tank; or

- B. contacts a pervious ground surface; and
- C. is not immediately and completely remediated within twenty-four (24) hours; or
- D. enters a surface water body; or
- E. enters a dry well or storm sewer

must be reported to the Planning Director or Designee or on-duty drinking water treatment plant operator within twenty-four (24) hours of discovery by the Facility Operator or any other party responsible for the storage unit from which the release occurred. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.

- (2) Notification Contents. Initial notice shall include, at a minimum, information related to the following:
  - A. Location of the release (Facility name, address, and phone);
  - B. Facility/responsible party's name, address, and phone;
  - C. Emergency contact and phone;
  - D. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released.
- (3) Regulated Substance Release Report. Within seven (7) days of a reported release, the responsible party must submit to the Planning Director or Designee a Regulated Substance Release Report providing any additional detail on the nature and management of the release, including control and corrective actions taken, fate of the released material, and, where applicable, the name of the contractor responsible for removal of released substances. Information submitted in the Regulated Substance Release Report shall be used by the Planning Director or Designee to determine if and where any additional follow-up work needs to be completed to assess the potential pollution impact of the release.
- (4) Remediation of Release. Upon discovery of a release, the Facility Operator or other responsible party must take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance release must be handled in accordance with Subsections 1192.05(b)(1) through (3) when the quantity of regulated wastes generated meet or exceed the quantity thresholds established in Subsection 1192.10(a)(2) in addition to all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to the Planning Director or Designee by the Facility Operator in accordance with Subsection 1192.04(e)(3)A.
- (5) Submission of Additional Information. The responsible party must copy the Planning Director or Designee on all correspondence submitted to federal, state, or local agencies related to site assessment and site remediation. The Planning Director or Designee may request, if deemed necessary, that:
  - A. The Fire Department provide a copy of the department's Ohio Fire Incident Reporting System report to the Planning Director or Designee;
  - B. The Ohio EPA provide a copy of the agency's Emergency Response Section Incident Report to the Planning Director or Designee; and/or
  - C. The Facility Operator develop and implement procedures to minimize the likelihood of



reoccurrence of such a release. The Facility Operator must submit procedures developed under this provision to the Planning Director or Designee no later than sixty (60) days after being required, and implemented no later than one hundred eighty (180) days after approval by the Planning Director or Designee.

- (6) Liability. The City is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any hazardous material release to soils, surface water, and/or groundwater in or near a WHPA which may present a threat to groundwater quality or violate Ohio's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the City in response to such an incident, in addition to any fines imposed under Ohio and Federal law, and these Codified Ordinances.

(h) **RECORDS RETENTION**

- (1) The Facility Operator must retain all records, reports, or other documentation related to the requirements of this Chapter on site for a minimum of five (5) years from the original date of the record, report, or document.

(i) **INSPECTION**

- (1) The Planning Director or Designee shall inspect all facilities subject to regulation under this Chapter no less than once every two (2) years for compliance with the provisions of this Chapter. Any inspection shall be conducted under the conditions listed in Subsection 1192.04(d)(1)A. through D.

(j) **SEVERABILITY**

- (1) Each provision of this Chapter shall be construed as separate, to the end that if any part of it is held invalid for any reason, the remainder shall continue in full force and effect.

(k) **CONFIDENTIALITY**

- (1) Information contained in any documentation collected by or submitted to the Planning Director or Designee under the provisions of this Chapter that is designated as confidential by a Facility Operator shall be considered confidential only to the extent allowable under Ohio Public Records Law and other applicable federal and state laws.

**1192.05 REGULATED SUBSTANCE STORAGE PROVISIONS: ABOVE GROUND STORAGE.**

(a) **APPLICABILITY**

- (1) This Section applies to the above ground storage of Regulated Substances in the Wellhead Protection Area in quantities meeting or exceeding those specified in Subsection 1192.10(a)(2).

(b) **GENERAL CONTAINER AND REGULATED SUBSTANCE HANDLING REQUIREMENTS AT NON-RESIDENTIAL FACILITIES**

- (1) All containers subject to regulation under this Chapter used for the storage or use of Regulated Substances at new and existing non-residential facilities must be:
  - A. Product-tight and free of any defects which may result in a release of the contained Regulated Substance;
  - B. Made of or lined with materials which will not react with and are otherwise compatible with the Regulated Substance stored;
  - C. Individually and clearly labeled with the contents of the container. If a Regulated Substance is being stored on site under the temporary storage provisions in Subsection 1192.04(e), the Regulated Substance storage unit must also be labeled with the date on which temporary storage began.
  - D. Stored on or above an impervious surface at all times that is free of any gaps, cracks, or other effects of deterioration that would allow for the penetration of Regulated Substances stored on that surface into surrounding soils, or, if stored on a pervious surface, stored with secondary containment in the form of a dike, containment pallet, or other containment unit capable of containing a release from the Regulated Substance storage unit. Existing ASTs are exempt from this requirement; and
  - E. Visually inspected weekly by the Facility Operator for any evidence of leaks, improper storage, or potential hazards that may result in a release of materials being stored in or transferred into the storage unit. Aisle space between containers must be adequate to allow for inspections. Where applicable, any leak detection or early warning system associated with an AST also must be inspected on a weekly basis. The Facility Operator must maintain a record of inspections and the findings of those inspections, and made available on request by the Planning Director or Designee. Any weekly inspection log maintained by a Facility Operator under another federal, state, or local program shall satisfy the requirements of this subsection provided the inspection includes those Regulated Substance storage units regulated under this Chapter.

Any Facility Operator installing an impervious surface or providing secondary containment under Subsection D. of this Section must do so no later than one hundred eighty (180) days after becoming subject to regulation under Subsection D. hereof. Continued storage of Regulated Substances on a pervious surface beyond this one hundred eighty (180) day period is permitted only if granted a temporary variance.

- (2) Defective Storage Units. A Facility Operator must remove defective storage units from service immediately and repair or replace the defective units if needed. Defective storage units permanently taken out of service must be decontaminated and disposed of in accordance with applicable federal, state, and local waste management standards.
- (3) Storage in Trucks, Trailers, Tankers, or Rail Cars. Any truck, trailer, tanker, or rail car used for the storage of Regulated Substances within the Wellhead Protection Area must:
  - A. Be structurally stable and free of any defects that may result in a release of the Regulated Substances stored in the truck, trailer, tanker, or rail car;
  - B. Be clearly labeled with the contents;
  - C. Be visually inspected weekly by the Facility Operator for any evidence of leaks, improper storage, or potential hazards that may result in a release of materials being stored in or transferred into or out of the storage unit; and

- D. Have all doors, valves, or other openings through which a release could occur locked or otherwise secured when not in use so as to prevent a release of the Regulated Substance through the opening(s)
- (4) Spill Control Plan. Permanent storage or use of Regulated Substances subject to regulation under this Chapter at new and existing facilities in a storage unit where a release from the storage unit would reach a pervious soil surface, dry well, storm sewer, or surface water body requires the development of a Spill Control Plan in accordance with Subsection 1192.05(g). A Facility Operator is exempt from this requirement if the storage unit or storage/usage area is secondarily contained.
- (c) **RESIDENTIAL REGULATED SUBSTANCE STORAGE UNITS**
- (1) All containers subject to regulation under this Chapter used for the storage or use of Regulated Substances at new and existing residential facilities must be:
    - A. In compliance with Subsections 1192.05(b)(1)A. through D.;
    - B. Visually inspected by the Facility Operator on a monthly basis. Where applicable, any leak detection or early warning system associated with an AST also must be inspected at that time; and,
    - C. Provided with a Spill Control Plan in accordance with Subsection 1192.05(g)(5), where applicable.
- (d) **ABOVEGROUND STORAGE TANK (AST) INSTALLATION**
- (1) Installation of New ASTs. This Section applies to the installation of ASTs at new or existing facilities after the effective date of this Chapter when the capacity of the AST meets or exceeds the quantity thresholds established in Subsection 1192.10(a)(2). All new ASTs must be registered in accordance with Subsection 1192.04(d)(1) and meet the general handling requirements specified in Subsection 1192.05(b) in addition to the following:
    - A. Bottom Clearance. All ASTs must have ground clearance of no less than two (2) inches from the outermost wall of the AST to allow for visual inspection of the underside of the AST. This requirement may be waived if the size of the AST prevents raising the tank as required or the AST is a concrete vaulted tank.
    - B. Secondary Containment. Unless required under Subsection 1511.01(c)(18) of these Codified Ordinances, all ASTs meeting or exceeding the thresholds established for secondary containment in Subsection 1192.05(e)(2) herein must be installed with secondary containment meeting or exceeding those requirements specified in Subsections 1192.05(e)(3) through (5).
    - C. Barriers. Any AST meeting or exceeding the thresholds established for secondary containment in Subsection 1192.05(e)(2) and which is installed in an area where the AST is open to vehicle damage must be protected against impact with physical barriers meeting the approval of the Planning Director or Designee. Any impervious dike utilized as secondary containment meets the requirements for a physical barrier.
  - (2) Replacement of Existing ASTs. Replacement of an existing AST after the effective date of this Chapter with any new or used AST is considered installation of a new system and therefore subject to any federal, state, and local regulations for the installation of new ASTs in

addition to the provisions of this Chapter, unless specified otherwise.

(e) **SECONDARY CONTAINMENT REQUIREMENTS**

- (1) **Exemptions.** Unless required under Subsection 1511.01(c)(18) of these Codified Ordinances, the following are exempt from the secondary containment requirements in this Chapter:
  - A. Storage of Regulated Substance(s) indoors in an area capable of fully containing within the Facility a total release of the Regulated Substance(s) for which the exemption is being claimed, or draining the release to a wastewater treatment system capable of treating the released substance(s). NOTE: Septic tank systems do not qualify as a wastewater treatment system under this exemption;
  - B. Storage of Regulated Substances as consumer products packaged in original containers;
  - C. Storage of Regulated Substances in storage units/areas with secondary containment comparable to or exceeding that required in Subsections 1192.05(e)(3) through (5) herein; and
  - D. ASTs located in the 10 year TOT.
- (2) **Secondary Containment Requirements for ASTs.** Unless exempted under Subsection 1192.05(e)(1), secondary containment is required as follows for ASTs installed after the effective date of this Chapter:
  - A. All ASTs installed in the one (1) year TOT with a capacity exceeding fifty-five (55) gallons; and
  - B. All ASTs installed in the five (5) year TOT with a capacity of five hundred (500) gallons or more when storing petroleum or petroleum-based products, or two hundred and fifty (250) gallons or more when storing all other Regulated Substances.
- (3) **Construction.** Secondary containment systems must be constructed of or lined with materials compatible with the Regulated Substance stored. Secondary containment must be of sufficient thickness, density, and composition so as not to be structurally weakened from contact with the Regulated Substance or precipitation, and must be free of cracks, joints, gaps, or other imperfections which would allow leakage through the containment.
- (4) **Double Walls and Diking.** An AST must have at least one of the following at the choice of the Facility Operator:
  - A. **Double Walls:** designed as a containment area and providing the Facility Operator with manual or electronic interstitial space monitoring capabilities. Laminated, coated, or clad materials shall be considered single-walled and shall not be construed to fulfill the requirement for double walling; or
  - B. **Diking:** capable of containing one hundred and ten percent (110%) of the total volume of the tank. If the storage area contains multiple ASTs, the secondary containment must be large enough to contain one hundred and fifty percent (150%) of the volume of the largest AST placed in it, or ten percent (10%) of the aggregate internal volume of all ASTs in the storage area, whichever is greater.
- (5) **Precipitation**

- A. If an AST using a dike as a secondary containment system is exposed to and subject to accumulation of precipitation within the dike, the dike must be designed and operated as follows:
  - 1. The base of the dike must be sloped to a collection point or sump to allow for controlled removal of accumulated storm water or spilled regulated materials; and
  - 2. If the dike is penetrated by a drainage pipe, the pipe must have a lockable valve. This valve shall be kept closed and locked under normal conditions until a determination is made by the Facility Operator that the discharge of storm water is acceptable pursuant to Subsection B. hereof.
  
- B. Storm water accumulated within secondary containment that is known or suspected to contain a release from the primary containment unit must be handled in accordance with applicable federal, state, or local laws. No potentially contaminated stormwater may be discharged to a sanitary sewer without approval of the Planning Director or Designee. The Planning Director or Designee may require analysis of the stormwater before allowing discharge to the sanitary sewer if the released substance could present a treatment problem at the wastewater treatment plant. The Facility Operator must take all reasonable steps to neutralize the stormwater before discharging the stormwater to any septic system, dry well, sewer, soil, or surface water body.

(f) **TEMPORARY PLACEMENT OUT OF SERVICE OF ASTS**

- (1) **Removal from Service.** Any Facility Operator intending to place an AST system out of service for less than one (1) year must remove the system from service in accordance with Chapter 1301:7-7-28, Section FM-2807.2.1 of the State Fire Code in addition to any other applicable federal, state, or local regulations. Any AST meeting any of the secondary containment exemption criteria in Subsection 1192.05(e)(1) or any heating fuel AST taken out of use for seasonal conditions, is exempt from this requirement.
  
- (2) **Returning the Tank to Service.** Unless required otherwise under another applicable federal, state, or local regulation, any AST placed out of service for more than ninety (90) consecutive days but less than one (1) year which is to be brought back into service must be brought back into service by the Facility Operator in accordance with Chapter 1301:7-7-28, Section FM-2807.2.1 of the State Fire Code. Any AST meeting any of the secondary containment exemption criteria in Subsection 1192.05(e)(1) is exempt from this requirement.

(g) **SPILL CONTROL PLANS**

- (1) **Non-Residential Facilities.** Facility Operators required to develop a Spill Control Plan (SCP) must complete the plan no later than one hundred eighty (180) days after becoming subject to this requirement. The Planning Director or Designee may provide, at the request of the Facility Operator, a template of the SCP to facilitate development of the SCP. The SCP does not require the signature of a professional engineer. The SCP must be stored on site and made available on request to the fire department or other inspection authority. Any SCP developed in compliance with other federal, state, or local regulatory programs may satisfy the requirements of this provision provided that SCP contains all information specified in Subsection 1192.05(g)(2) Any deficient information must be amended into the existing SCP to be considered compliant with this Section. If a pre-existing SCP is being used to satisfy

this requirement, only compliance with Subsections 1192.05(g)(3) and (4) is required. Where applicable, one (1) copy of the SCP must be kept in the Facility's repository box (lock box).

- (2) Content of the Spill Control Plan. The SCP must specify all of the following:
  - A. Facility name, address, and phone;
  - B. Facility Operator name and phone;
  - C. Emergency contact and phone. Designation of an emergency contact must be done in accordance with Subsection 1192.04(d)(2);
  - D. A brief description of the type of business conducted at the Facility;
  - E. The location of the Regulated Substance storage area(s) for which the SCP is being developed;
  - F. The type(s) and normally anticipated quantity of Regulated Substance(s) stored in the Regulated Substance storage area(s) for which the plan is being developed;
  - G. Potential hazards (including activities) to the Regulated Substance(s) stored in the area;
  - H. All openings/routes through which a release from the storage area(s) would potentially flow into the Facility's property and within five hundred (500) feet beyond the property line, including floor drains, doorways, storm sewers, dry wells, streams, and other openings/routes;
  - I. Emergency response procedures to be followed in the event of a release, including specific points of contact for releases, evacuation procedures, and emergency notification procedures for appropriate federal, state, and local agencies; and
  - J. Emergency equipment available to the Facility Operator and location of equipment.
  
- (3) Employee Training. A Facility Operator must train all employees annually on the release procedures outlined in the SCP. The Facility Operator must maintain a log of employee training and make the log available to the Planning Director or Designee upon request. Copies of the SCP must be readily available for employee use in work areas in or near Regulated Substance storage areas.
  
- (4) Updating the SCP. A Facility Operator must review and amended the SCP as necessary every two (2) years and when any of the following occur:
  - A. There is a change in ownership or management at the Facility;
  - B. An out-of-service AST system lacking secondary containment comparable to that required in Subsection 1192.05(e) is returned to service; and/or
  - C. Changes, structural or otherwise, are made at the Facility that will affect the anticipated flow direction of any release from the storage area or unit (ex: regrading of property, paving, building additions).
  
- (5) Residential Spill Control. Any residence with a Regulated Substance storage unit required to have a Spill Control Plan shall receive information from the Planning Director or Designee on how to respond to a release from the storage unit as those units are registered. This information shall be provided in an easy to follow format. The owner of the Regulated Substance storage unit must keep any information related to spill control readily available in the event of a release.

## **1192.06 UNDERGROUND STORAGE TANKS.**

(a) **APPLICABILITY**

- (1) This Section applies to any person currently owning and/or operating or intending to own and/or operate any underground storage tank (UST) with a capacity exceeding fifty-five (55) gallons when located within the one (1) or five (5) year time-of-travel zone (TOT), or with a capacity meeting or exceeding five hundred (500) gallons or more when located within the ten (10) year TOT.

(b) **EXEMPTIONS**

- (1) The following USTs are exempt from regulation under this Section:

- A. USTs in the ten (10) year TOT used exclusively for the storage of Grade 1 or Grade 2 heating fuels and diesel fuel; and
- B. USTs containing de minimis quantities of a Regulated Substance.

A de minimis quantity is one (1) inch or less. Any claim that a UST contains de minimis quantities when storing more than one (1) inch of Regulated Substance shall be determined by the Planning Director or Designee on a case-by-case basis. A Facility Operator must submit verification to the Planning Director or Designee that the UST contains a de minimis quantity of a Regulated Substance when making any de minimis claim.

(c) **REGISTRATION OF UST SYSTEMS**

- (1) **Registration.** All UST systems subject to regulation under this Section must be registered in accordance with Subsection 1192.04(d)(1) of this Chapter. Any Facility Operator required to annually register a UST system with the State Fire Marshal under OAC 1301:7-9-04 may provide a copy of that registration to the Planning Director or Designee to satisfy this registration requirement.
- (2) **Information.** UST registration shall include, but is not limited to, information on the following:
- A. Facility name, address, and phone;
  - B. Facility Operator, address, and phone;
  - C. Number, size, construction, date of installation, and location of USTs;
  - D. Regulated Substances stored in the UST; and
  - E. Brief description of the type of monitoring equipment used for tanks.
- (3) **New UST Registration.** Any new UST system subject to regulation under this Section that is installed at a facility beginning operation after the effective date of this Chapter must be registered in accordance with Subsection 1192.04(d)(1) no later than one hundred eighty (180) days after beginning operation.
- (4) **Registration of Previously Exempt Facilities.** Any previously exempt Facility that becomes subject to regulation under this Section due to:
- A. Installation of an UST subject to regulation under this Section;

- B. Return to service of any temporarily abandoned UST or UST containing de minimis quantities of Regulated Substances; and/or
  - C. Changes in the delineated Wellhead Protection Area as specified in Subsection 1192.02(b) of this Chapter must be registered in accordance with Subsection 1192.04(d)(1) no later than one hundred eighty (180) days after becoming subject to regulation under this Section.
- (5) Amending Registrations. A Facility Operator must amend, or at the request of the Facility Operator, the Planning Director or Designee must amend an existing UST registration no later than sixty (60) days after any:
- A. Replacement of an existing UST system;
  - B. Change in ownership or management of the Facility;
  - C. Return to service of any temporarily abandoned UST or UST containing de minimis quantities of Regulated Substances;
  - D. Permanent abandonment and/or removal of a UST; and/or
  - E. Change in the delineated Wellhead Protection Area as specified in Subsection 1192.02(b) of this Chapter.

A Facility Operator choosing to have their facility registration amended by the Planning Director or Designee must contact the Planning Director or Designee no less than thirty (30) days before a registration is due to ensure completion of the registration within the allowed sixty (60) day time frame.

- (6) Registration of Multiple Facilities. Any person owning and/or operating more than one Facility subject to regulation under this Section must register each regulated Facility separately in accordance with the provisions of this Section.

(d) **UST INSTALLATION REQUIREMENTS**

- (1) BUSTR Sensitive Area USTs. All USTs subject to regulation under the BUSTR Sensitive Area regulations (OAC 1301:7-9-10) must be installed in accordance with those requirements when installed in the Wellhead Protection Area.
- (2) Heating Fuel USTs; Diesel Fuel USTs. Heating fuel and diesel fuel USTs subject to regulation under this Section must be vaulted in accordance with Subsection 1192.06(d)(4) herein.
- (3) Other USTs. UST systems installed for permanent storage, use, or handling of Regulated Substances other than vehicles fuels, vehicle lubricants, and fuel for building and/or process heating must be vaulted in accordance with Subsection 1192.06(d)(4) herein.
- (4) Vaulted USTs. Vaults must meet the criteria specified in OAC 1301:7-9-10(C)(2)(a) and (c). The Facility Operator must inspect the vaulted UST at least once every thirty (30) days for visible signs of leaks, cracks, or other structural defects that may result in the release of the substance into the vault or surrounding soils.
- (5) Any UST system which, on the effective date of this Chapter,



- A. is being installed;
- B. has received approval from the State Fire Marshal or Ohio EPA to be installed; or
- C. is being reviewed by the State Fire Marshal or Ohio EPA for a permit to install

is considered an existing UST system for the purposes of this Section.

(e) **UPGRADING/REPLACEMENT OF UST SYSTEMS**

- (1) For the purpose of this Section, replacement of an existing UST shall be considered installation of a new system and required to comply with any applicable federal, state, and local regulations for the installation of new USTs in addition to the provisions of this Section, unless specified otherwise.

(f) **TEMPORARY PLACEMENT OUT-OF-SERVICE, TEMPORARY CLOSURE, ABANDONMENT, REMOVAL, AND CHANGE IN SERVICE OF UST SYSTEMS**

- (1) Compliance. Facility Operators must comply with all applicable federal, state, and local regulations for the temporary placement out of service, closure, abandonment, removal, or change in service of any UST system in addition to any requirements set forth in this Section.
- (2) Abandonment of UST Systems. No UST system located in the Wellhead Protection Area may be abandoned in place unless approved by a certified fire safety inspector or the State Fire Marshal. The Facility Operator must copy the Planning Director or Designee on any closure assessment and other information related to the closure and abandonment in place of the UST system as the information is submitted to the Bureau of Underground Storage Tank Regulations, the State Fire Marshal, or Ohio EPA.

(g) **TANK TIGHTNESS TESTING**

- (1) Exemptions. The following USTs are exempt from the tank tightness testing provisions required by this Section:
  - A. USTs regulated under and operated in compliance with the BUSTR Sensitive Area Requirements (OAC Chapter 1301:7-9-10);
  - B. USTs vaulted in accordance with Subsection 1192.06(d)(4); and
  - C. USTs with a capacity of less than five hundred (500) gallons used exclusively for holding diesel fuel and heating fuel oil grades no. 1 and 2 .
- (2) Tightness Testing. Any UST not exempt under Subsection 1192.06(g)(1) must be tested for tightness as follows:
  - A. Prior to the conveyance of real property by sale or otherwise on which an UST is located, the grantor shall have each UST located thereon tested for tightness in accordance with OAC Chapter 1301:7-9-07(E)(3) and (F)(2), provided no such UST shall be subject to testing more than three (3) times in the same ten (10) year period.
  - B. Where a conveyance of real property on which an UST is located has not occurred within any consecutive ten (10) year period, commencing from the effective date of this Chapter, the owner shall cause each UST located thereon to be tested for tightness in accordance with OAC Chapter 1301:7-9-07(E)(3) and (F)(2) within such period.

Testing results shall be submitted to the Planning Director or Designee no later than thirty (30) days after completion of the test. A tightness test is not required if the UST will be removed in conjunction with sale of the property or where a test has been completed for a UST within one (1) year prior to sale or transfer of ownership of a property.

- (3) Failure of a Tank Tightness Test. If a UST fails a tank tightness test, the Facility Operator must determine if a release has occurred. If a release is confirmed, the release must be reported and remediated in accordance with Subsection 1192.04(g).

## **1192.07 MANAGEMENT OF OTHER POTENTIAL POLLUTION SOURCES**

### **(a) LAND APPLICATION OF PESTICIDES AND FERTILIZERS**

- (1) Applicability. This Section applies to the application of restricted use pesticides as identified by the United States Environmental Protection Agency at existing and new commercial, recreational, and agricultural facilities in the one (1) and five (5) year TOT.
- (2) Registration of Restricted Use Pesticides. Facility Operators applying restricted use pesticides within the one (1) and five (5) year TOT in any quantity must register the application of those restricted use pesticides with the Planning Director or Designee within one hundred eighty (180) days of the effective date of this Chapter and by March 1 of every second year thereafter. Any Facility Operator required to maintain records of restricted use pesticide application under any other federal, state, or local program may submit a copy of those records to the Planning Director or Designee to satisfy this registration requirement. A Facility Operator may request that the registration be completed by the Planning Director or Designee. A Facility Operator choosing to have their facility registered by the Planning Director or Designee must contact the Planning Director or Designee no less than ninety (90) days before a registration is due to ensure completion of the registration by the required due date.
- (3) Registration Information. Registration will include, but is not necessarily limited to, general information on the facility and the application of restricted use pesticides at the facility.
- (4) Registration of Previously Exempt Facilities. Any previously exempt Facility that becomes subject to regulation under this Section due to:
  - A. Changes in the types of pesticides applied at a Facility from non-restricted to restricted use pesticides; and/or
  - B. Changes in the delineated Wellhead Protection Area as specified in Subsection 1192.02(b) must be registered in accordance with Subsection 1192.07(a)(2).

### **(b) ROAD SALT STORAGE**

- (1) New Facilities. All road salt stored at new facilities in the one (1) year TOT must be stored under covered shelter on an impervious surface. This requirement does not apply to salt prepackaged for consumer use.
- (2) Registration. Any Facility in the one (1) year TOT storing road salt outdoors in quantities

meeting or exceeding one thousand (1,000) pounds must be registered in accordance with Subsection 1192.04(d)(1).

(c) **ON-LOT SEWAGE SYSTEMS**

- (1) **Registration.** Any on-lot sewage system in the Wellhead Protection Area used for the disposal of process waters other than sanitary wastes must be registered in accordance with Subsection 1192.04(d)(1). Any Facility Operator required to register such disposal to any other federal, state, or local authority may submit a copy of that registration to the Planning Director or Designee to satisfy the registration requirements of this Subsection. The Planning Director or Designee reserves the right to ask for additional information when deemed necessary.
- (2) **Cessation of On-Site Disposal.** Any Facility Operator permanently ceasing disposal of process wastes on site through an on-lot sewage system must submit an amended facility registration no later than sixty (60) days of ending disposal in accordance with Subsection 1192.04(d)(7).

(d) **COMMERCIAL JUNK YARDS**

- (1) All commercial junk yards in the Wellhead Protection Area must be registered in accordance with Subsection 1192.04(d)(1) and must comply with the following as applicable: Subsection 1192.04(f) (Facility Closure); Subsection 1192.04(g) (Release Notification); and Subsection 1192.05(b) (General Container and Regulated Substance Handling Requirements).
- (2) **Fluid Management.** Scrap vehicles or other units brought into a commercial junk yard located within the Wellhead Protection Area must have all fluids removed in accordance with current federal, state, and local regulations before on-site crushing and/or storage of the vehicle or unit. All Regulated Substances removed from a vehicle or other unit must be handled and stored in accordance with current federal, state, and local regulations in addition to the provisions of this Chapter as required.

(e) **DRY WELLS**

- (1) **Registration of New Dry Wells.** The Planning Director or Designee must be notified of the installation of any new dry well within the Wellhead Protection Area no later than sixty (60) days after installation of the new dry well. Notification shall be provided on a standard form supplied by the Planning Director or Designee at the request of the registrant. The registration shall include information including, but not limited to, the location and design of the new dry well(s). One registration form may be submitted for the installation of multiple dry wells with the same design at a site.
- (2) **Use of Existing Registration Information.** Any municipality or Facility Operator required to register or report a dry well or dry well system to any other federal, state, or local authority may submit a copy of that registration or report to the Planning Director or Designee to satisfy the registration requirements of this Section. The Planning Director or Designee reserves the right to request additional information when deemed necessary.
- (3) **Inspection and Maintenance Schedule.** Any municipality using dry wells for storm water

management in the one (1) and five (5) year TOT must develop and implement a schedule for the regular inspection and maintenance of those dry wells.

(f) **LANDFILLS**

- (1) **Registration.** All commercial landfills in the Wellhead Protection Area must be registered in accordance with Subsection 1192.04(d)(1). Any releases meeting criteria specified in Subsection 1192.04(g)(1), or any release to groundwater detected through a groundwater monitoring network associated with the site, must be reported to Planning Director or Designee in accordance with Subsection 1192.04(g). The Planning Director or Designee shall make all reasonable effort to register former unlicensed landfills in addition to commercial landfills.

(g) **WELLS**

- (1) **Applicability.** This Section applies to any existing or new well in a WHPA used for the production of groundwater that does not require plan approval by the Ohio EPA. This includes any well used for producing water not intended for human consumption.
- (2) **Installation and Maintenance.** Any well subject to regulation under this Section installed after the effective date of this Chapter must be installed in accordance with Chapter 3745-9-05 of the Ohio Administrative Code. All new wells must be registered by the well owner with the Planning Director or Designee no later than fifteen (15) days prior to installation of the well. All new wells must be installed by a State-recognized well driller. All wells must be maintained in accordance with Chapter 3745-9-09(A)-(C) of the Ohio Administration Code.
- (3) **Abandonment of Wells.** All wells which are not maintained for production, standby, or observation purposes are to be permanently abandoned by completely filling the well with grout so as to prevent contaminants from entering groundwater through the well. Grout can be neat cement, inert natural materials, concrete, heavy drilling mud, heavy bentonite water slurry, inert polymer material, or other materials designed for sealing a well that are impervious to and capable of preventing movement of water. All materials except neat cement and concrete when used as grout shall be of sufficient viscosity to require a time of at least seventy seconds to discharge one quart of the material through an API marsh funnel viscometer. The Facility Operator must notify the Planning Director or Designee of the no later than fifteen (15) days prior to abandonment of the well.

**1192.08 VIOLATION, PENALTY, AND ADMINISTRATIVE REMEDIES**

(a) **VIOLATIONS AND PENALTIES**

- (1) No person shall knowingly submit false or inaccurate information to the Planning Director or Designee or City of Fairfield, or violate, disobey, omit, neglect, or refuse to comply with any provision of this Chapter or order issued pursuant to this Chapter. Any person doing so shall be subject to penalty under Section 1135.99 of these Codified Ordinances.

**1192.09 VARIANCE AND APPEALS UNDER THE WELLHEAD PROTECTION PROGRAM**

(a) **APPEAL**

- (1) Any person aggrieved by any order issued by the Planning Director or Designee under the provisions of this Chapter may appeal such decision to the City of Fairfield Board of Zoning Appeals in accordance with established filing procedures.
- (2) Wellhead Protection Appeals Advisory Board Established. The member communities of the Hamilton to New Baltimore Groundwater Consortium will establish a Wellhead Protection Appeals Advisory Board (WHPAAB) for the technical review of any variance or appeals request submitted under the Wellhead Protection Program. The WHPAAB shall consist of representatives from communities in the Hamilton to New Baltimore area as selected by City Council or other designated authority for that community. The WHPAAB shall operate in accordance with the bylaws developed by and for the group.
- (3) WHPAAB Review. Before action on any variance or appeal under this Chapter by the City of Fairfield Board of Zoning Appeals, the WHPAAB shall review any variance or appeal request to ensure that the request, if granted, will not present a contamination threat to groundwater. The WHPAAB shall provide a recommendation on the variance or appeal request to the Board of Zoning Appeals. In doing so, they 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 appeals request to make a recommendation to the Board of Zoning Appeals. This thirty (30) days period shall be inclusive within, not in addition to, the allowed time frame for review by the Board of Zoning Appeals.

## **1192.10 REGULATED SUBSTANCES LIST**

### **(a) REGULATED SUBSTANCE LIST.**

- (1) The substances to be regulated ("Regulated Substances") are those chemicals, mixtures, and other substances, or components thereof, that are known or suspected carcinogens, toxic or highly toxic agents, corrosives, or which otherwise have been determined to be a health hazard or require monitoring as a primary or secondary contaminant under the Safe Drinking Water Act of 1986 (Public Law 93-523), as amended. These substances shall be regulated when the concentration of Regulated Substances stored or otherwise used on site meets or exceeds those quantities specified in Subsection 1192.10(a)(2). Regulated Substances include:
  - A. Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum-based products;
  - B. Antifreeze, transmission fluids, brake fluids, and coolants;
  - C. Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon or halogenated hydrocarbon solvents;
  - D. Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning;
  - E. Organic pigments;
  - F. Liquid storage batteries;
  - G. Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters;

- H. Corrosion and rust prevention solutions;
- I. Industrial and commercial cleaning supplies, including drain cleaners;
- J. Sanitizers, disinfectants, bactericides, and algacides;
- K. Pesticides, herbicides, and fertilizers;
- L. Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5;
- M. Aqueous metals;
- N. Road salt (only when stored in the 1 year TOT); or
- O. Or any other material containing one percent (1%) or more by weight of a hazardous raw or waste product that is regulated: as an Extremely Hazardous Substance under Section 302 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (OAC Chapter 3750-20); as a Hazardous Substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (OAC Chapter 3750-30); or as a Toxic Chemical regulated under Section 313 of EPCRA (OAC 3745-100).

A substance listed above may be exempted from regulation under this Chapter if the Regulated Substance does not present a threat to groundwater due to the nature of the substance, and the Facility Operator claiming this exemption for a specific Regulated Substance shows the Planning Director or Designee proper documentation from the chemical manufacturer or other qualified, verifiable source that the Regulated Substance does not present a threat to groundwater.

- (2) Baseline Quantity Thresholds. Substances listed in Subsection 1192.10(a)(1) shall be considered regulated when, at any time of the year, the concentration of Regulated Substances Stored or used at a facility meets or exceeds the lesser of the following quantities:
  - A. When located within the one (1) and five (5) year TOT, in amounts exceeding fifty-five (55) gallons aggregate for liquid materials or four hundred forty (440) pounds aggregate for dry weights;
  - B. When located within the ten (10) year TOT, in amounts meeting or exceeding one thousand (1,000) gallons aggregate for liquid materials or eight thousand (8,000) pounds aggregate for dry weights when stored aboveground, or five hundred (500) gallons aggregate for liquid materials when stored in an underground storage tank.
- (3) Regulated Substances for Consumer Purchase. Storage of Regulated Substances packaged as consumer products in original containers for consumer purchase shall be regulated under this Chapter only when storage meets or exceeds five (500) hundred gallons aggregate for liquid materials or four thousand (4,000) pounds aggregate for dry weights, whichever is less, in the one (1) and five (5) year TOT, or one thousand (1,000) gallons aggregate for liquid materials or eight thousand (8,000) pounds aggregate for dry weights, whichever is less, in the ten (10) year TOT.