

Vandalia, Ohio
Wellhead Protection Ordinances
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City of Dayton, OH
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Zoning Ordinance
Adopted: 1990

City of Vandalia Montgomery County, Ohio
ORDINANCE NO. 90-07

Accepted by Vandalia Planning Commission
3/27/90

Supplementing the Revised Code of General Ordinances by the Revision of Chapter 1230, Section 1230.06 and chapter 1236, Section 1236.01 and Enactment of Chapter 1271 to Create and Establish Land Use Regulations for the Well Field Protection Overlay District (WP). Amending the Official Zoning map to map the Well Field Protection Overlay District (WP).

WHEREAS, The safety and potability of the community's water supply requires that lands proximate to the well fields of the City of Dayton and/or other public water supplies be subject to land use controls designed to prevent uses injurious to the public water supply; and

WHEREAS, Commercial and industrial uses if unregulated have an immediate probability of permitting the introduction of toxic substances into the water supply; and

WHEREAS, in order to achieve the timely implementation of the ordinances set forth herein for the prevention of contamination of the water supply and the protection of public health, it is necessary that this ordinance take effect at an early date; Now Therefore,

BE IT ORDAINED BY the COUNCIL OF VANDALIA:

Section 1. That the Revised Code of General Ordinances be and it is hereby supplemented by the Revision of Chapter 1230, Section 1230.06, and Chapter 1236, Section 1236.01 and Enactment of Chapter 1271 which shall read as follows:

chapter 1230, Section 1230.06, is revised to include:

aquifer." A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.

UNREGULATED SUBSTANCES." Substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals which are health hazards. Regulated Substances include:

(1) chemicals for which there is scientific evidence that acute or chronic health. effects may

result from exposure including carcinogens, toxic and highly reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, toxic agents, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater of the composition on a weight per unit weight basis.

(4) In cases where ingredients of mixtures prepared within the WP Well Field Protection Overlay District where such ingredients are health hazards but comprise less than one tenth of one (0.1) percent of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one (1.0) percent of the mixture (on a weight permit weight basis) if non-carcinogenic, only the volume or weight of the ingredient and no: the Volume or weight of the whole mixture shall be considered.

(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

"ONE YEAR CAPTURE AREA." The area around the public water supply well fields delineated by the one year travel time contour.

"DIRECT RECHARGE AREA." That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

"RECHARGE LAGOON." A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

"WELL FIELD." A tract of land that contains a number of wells for supplying water.

"POTABLE WATER." Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

"PROTECTED PUBLIC WATER SUPPLY." A public water system which services at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents, and having a one-year capture area defined through appropriate hydrologic studies.

"TRAVEL TIME CONTOUR." A locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.

"UNDERGROUND STORAGE TANK." Any one or combination of tanks (including

underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10) percent or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the Health Department or Ohio Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.

chapter 1236, Section 1236.01. is revised to include:

WP Well Field Protection Overlay District chapter 1271

WP WELL FIELD PROTECTION OVERLAY DISTRICT

1271.01 PURPOSE

The WP Well Field Protection Overlay District is designed to safeguard the public health, safety and welfare of the customers of protected public water supplies by regulating the land use and the storage, handling, use and/or production of Regulated Substances. The areal extent of the zone is described as the land area within city of Vandalia adjacent to existing and proposed public wells which lies within the one (1) year capture area, including a one thousand (1,000) foot strip of land outside of

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the direct recharge area in locations where the direct recharge area within the one (1) year capture area impinges on the aquifer boundary. The intent of this designation is to protect the community's potable water supply against contamination.

1271.02 APPLICABILITY OF WELL FIELD PROTECTION OVERLAY DISTRICT TO UNDERLYING ZONING DISTRICTS

The provisions of this Chapter shall be applicable to all lands shown as being located within the boundaries of the WP Well Field Protection Overlay District on the Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this Chapter are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

1271.03 DETERMINATION OF APPLICABILITY

It shall be the responsibility of any person owning real property and/or owning or operating a business within Vandalia to make a determination of the applicability of this Chapter as it pertains to the property and/or business, and failure to do so shall not excuse any violations of this Chapter.

1271.04 PERMITTED USES, BULK AND YARD REGULATIONS

The permitted, conditional and prohibited uses, and the bulk within the WP Well Field Protection Overlay District shall be those of the underlying zoning district, except as specified in Section 1271.05.

1271.05

PROHIBITED USES

Sanitary land fills, land fills composed of demolition debris and dry wells are prohibited uses in the WP Well Field Protection Overlay District.

1271.06 CONDITIONAL USES

The requirements of this section shall be in addition to any applicable regulations in this Article.

(A) The conditional uses within the WP Well Field Protection Overlay District shall be those of the underlying zoning district, except as specified in Section 1271.05.

1271.07 MINERAL EXTRACTION AND PROCESSING USES

If the excavation, extraction, mining or processing of sand, gravel and limestone from the earth for resale are permitted or conditionally permitted within the underlying zoning district, approval of an excavation and facilities plan is required that includes, but is not limited to:

(A) an existing site plan with topographic detail at two (2) foot contour intervals, all planimetric information, depth to ground water and flood plain characteristics where applicable;

B) the proposed extent and depth of excavations;

(C) slope angle of excavation walls (any final slopes shall not exceed the angle of repose for the remaining material),

D) use and disposition of the spoil and/or overburden materials from the excavations including a landscaping and vegetation plan to stabilize any disturbed material;

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E) surface drainage plan:

1) drainage into on-site excavations from proximate off-site property is prohibited Unless the applicant provides a plan which otherwise protects the excavations from off-site waterborne regulated substances.

2) the final on-site grading shall minimize all surface drainage into the excavations.

F a post excavation and operation land use plan; and

(G) a security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on site).

1271.08 GROUNDWATER PROTECTION STANDARDS

(A) Use, storage, handling and/or production of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited to:

(I) AGGREGATE OF REGULATED SUBSTANCES: The aggregate of Regulated Substances in use, storage, handling and/or production may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.

(2) TOTAL USE OF REGULATED SUBSTANCES: The total use, storage, handling and/or production of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

B) A limited exclusion from the provision of 1271.08(A) is authorized for non-routine maintenance or repair of property or equipment. The use, storage, handling and/or production of Regulated Substances under this exclusion shall be limited to:

1. The aggregate of Regulated Substances in use, storage, handling, and/or production may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

2. The total use, storage, handling and/or production of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(C) A limited exclusion from the provisions of 1271.08(A) is authorized for medical and research laboratory uses, provided however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.

D) A limited exclusion from the provisions of 1271.08(A) is authorized for Regulated Substances which are cleaning agents, provided however such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no

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case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

e) With the exception of residential use of heating fuels in tanks having a capacity equal to or less than five hundred (500) gallons, the underground storage of fuel and lubricants for vehicle operations and fuel for building and/or process heating in conjunction with permitted and conditional uses in this district shall be in secondarily contained and monitored tanks. Such installations shall be subject to approval by the Administrative Officer.

F) Notwithstanding other provisions of this chapter, non-conforming uses in this district presently utilizing underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or process heating shall be permitted to replace existing tanks with those constructed as per the specifications of 1271.08(E) above and not exceeding the capacity of existing tanks. Replacement of underground tanks for Regulated Substances other than the above noted fuels and lubricants is not permitted.

(G) As part of the finding required under Chapter 1232, Section 1232.05 the Administrative Officer or his designee shall utilize the Hazard Potential Ranking System, Section 1271.09 to assist in the determination of intensity of use within this district. No substitutions of a non-conforming use shall be permitted which result in an increase of the Hazard Potential Ranking on a parcel within this district.

1271.09 HAZARD POTENTIAL RANKING SYSTEM FOR NONCONFORMING USES
 Uses using, storing, handling and/or producing regulated substances in amounts equal to or less than the requirements of Section 1271.08 are considered conforming uses and this section does not apply. Any new use or change of use shall maintain the conforming status of the property.

In order to assess the risk for groundwater contamination potential for nonconforming uses, a hazard ranking has been developed for various activities categorized by their Standard Industrial Classification (SIC) code. This ranking is based on the kind of materials commonly associated with each use looking only at the most critical hydrologic factors.

Table I below lists the site hazard potential by land use activity on a scale of one (1) to nine (9), with one (1) being a low hazard and nine (9) a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly used or stored on the site or the types and amounts of wastes commonly discharged.

Table 2 below lists the hazard potential determined on the basis of materials known to be used, stored, or disposed of at a specific site.

If the two tables referenced above indicate different site hazard potential ratings for the SIC-coded land use activity and the materials found on-site, the higher of the two scores is the rating for the site.

TABLE 1

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NUMBER	HAZARD POTENTIAL DESCRIPTION OF WASTE SOURCE	INITIAL RATING
01	AGRICULTURAL PRODUCTION	
	CROPS 1-2	
02	AGRICULTURAL PRODUCTION	
	LIVESTOCK	

021 Livestock, except Dairy, Poultry
 and Animal Specialties
 024 Dairy Farms
 025 Poultry and Eggs 4
 027 Animal Specialties 2-4
 029 General Farms, Primarily
 Livestock 2
 (5 for Feedlots)
 4

- D-DD

10 METAL MINING
 101 IronOres 4
 102 CopperOres 6
 103 Lead and Zinc Ores 5
 104 Gold and Silver Ores 6
 105 Bauxite and Other
 Aluminum Ores 5
 106 Ferroalloy Ores Except
 Vanadium 5
 Metal Mining Services 4
 Mercury Ore 6

Urani urn-Radium-Vanadium
 108
 1092
 1094
 Ores
 Metal Ores Not Elsewhere
 Classified
 7

5
 1099

- DDDD-D - - D~~DD DDDDD -
 11 ANThRACITh MINING 7
 -- ~DDD ---

12 BITUMINOUS COAL AN~
 LIGNITE MINING 7
 ~D

13 OIL AND GAS EXiRACtiON
 131 Crude Petroleum and
 Natural Gas 7
 Natural Gas Liquids 7
 Drilling oil and Gas Wells 6
 Oil and Gas Field
 Exploration Services 1

132
1381
1382

1389 bil and Gas Field Services
Not Elsewhere Classified Variable,
Depending
on
Activity

14 MINING AND QUARRYING OF NON-
METALLIC MINERALS, EXCEPT
FUELS

- 141 Dimension Stone 2
- 142 Crushed and Broken Stone,
Including Riprap 2
- 144 Sand and Gravel 2
- 145 Clay, Ceramic, and
Refractory Minerals 2-5
- 147 Chemical and Fertilizer
Mineral Mining 4-7
- 148 Nonmetallic Minerals Services 1-7
- 149 Miscellaneous Nonmetallic
Minerals, Except Fuels 2-5

16 CONSTRUCTION OTHER THAN
BUILDING CONSTRUCTION

- 1629 Heavy Construction, Not
Elsewhere Classified (Drilling,
Especially in Salt Water) 4

20 FOOD AND KINDRED PRODUCTS

- 201 Meat Products 3
- 202 Dairy Products 2
- 203 Canned and Preserved Fruits
and Vegetables 4
- 204 Grain Mill Products 2
- 205 Bakery Products 2
- 206 Sugar and Confectionery
Products 2
- 207 Fats and Oils 3
- 208 Beverages 2-5
- 209 Misc. Food Preparation and
Kindred Products 2
- 22 TEXTILE MILL PRODUCTS, ALL EXCEPT
LISTINGS BELOW

223	Broad Woven Fabric Mills, Wool (including dyeing and finishing)	6
226	Dyeing and Finishing Textiles, Except Wool Fabrics and' Knit Goods	6
2295	Coated Fabrics, Not Rubberited	6
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	
241	Logging Camps and Logging Contractors	2
242	Sawmills and Planing Mills	2 4
2435	Hardwood Veneer and Plywood	4
2436	Softwood Veneer and Plywood	
2439	Structural Wood Members, Not Elsewhere Classified (laminated wood-glue)	3
2491	Wood Preserving	5 4
2492	Particle Board	
2499	Wood Products, Not Elsewhere Classified	2-5
26	PAPER AND ALLIED	PRODUCTIONS 6
261	Pulp Mills	
262	Paper Mills Except Building Paper Mills	6
263	Paperboard Mills	6
2812	Alkalies and Chlorine	7-9
2813	industrial Gases	
2816	inorganic Pigments	3-8
2819	industrial inorganic Chemicals Not Elsewhere Classified	3 - 9
2821	Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers	6 - 8
2822	Synthetic Rubber (vulcanizable Elastomers)	6-8
2823	Cellulose Man-Made Fibers	6-8

- 2824 Synthetic Organic Fibers,
 Except Cellulosic 6-8
- 2831 Biological Products 6-9
- 2833 Medicinal Chemicals and
 Botanical Products 3-8
- 2834 Pharmaceutical Preparations 6 - 9
- 2841 Soap and Gther Detergents,
 Except Specialty Cleaners 4 - 6
- 2842 Specialty Cleaning, Polishing,
 and Sanitation Preparation 3 - 8
- 2843 Surface Active Agents,
 Finishing Agents, Sulfonated 6 - 8

oils and Assistants

- 2295 Coated Fabrics, Not Rubberited

6

24 LUMBER AND WOOD PRODUCTS,
 ExCEF~FURNITURE

- 241 Logging Camps and Logging 2

Contractors

- 242 Sawmills and Planing Mills 2

4

- 2435 Hardwood Veneer and Plywood 4

- 2436 Softwood Veneer and Plywood

- 2439 Structural Wood Members,
 Not Elsewhere Classified
 (laminated wood-glue) 3

5

- 2491 Wood Preserving

4

- 2492 Particle Board

- 2499 Wood Products, Not Elsewhere

2-5

Classified

26 PAPER AND ALLIED PRODU~S 6

- 261 Pulp Mills
- 262 Paper Mills Except Building 6
 Paper Mills
- 263 Paperboard Mills 6

---- CHEMICALS AND ALLIED PRODU~S

- 2812 Alkalies and Chlorine 7-9
- 2813 industrial Gases
- 2816 inorganic Pigments 3-8
- 2819 industrial inorganic Chemicals 3 - 9

Not Elsewhere Classified
 2821 Plastic Materials, Synthetic
 Resins, and Nonvulcanizable
 Elastomers 6 - 8
 2822 Synthetic Rubber
 (vulcanizable Elastomers) 6-8
 2823 Cellulose Man-Made Fibers 6-8
 2824 Synthetic Organic Fibers,
 Except Cellulosic 6-8
 2831 Biological Products 6-9
 2833 Medicinal Chemicals and
 Botanical Products 3-8
 2834 Pharmaceutical Preparations 6 - 9
 2841 Soap and Other Detergents,
 Except Specialty Cleaners 4 - 6
 2842 Specialty Cleaning, Polishing,
 and Sanitation Preparation 3 - 8
 2843 Surface Active Agents,
 Finishing Agents, Sulfonated 6 - 8
 oils and Assistants
 2844 Perfumes, Cosmetics, and
 Other Toilet Preparations
 3-6
 2851 Paints, Varnishes, Lacquers,
 Enamels, and Allied Products
 5-8
 2861 Gum and Wood Chemicals
 5-8
 2865 Cyclic (coal tar) Crudes, and
 Cyclic Intermediates, Dyes and Organic Pigments (Lakes and Toners)
 6-9
 2869 Industrial Organic Chemicals
 Not Elsewhere Listed 3.9
 2873 Nitrogenous Fertilizers
 7-8
 2874 Phosphatic Fertilizers
 7-8
 2875 Fertilizer Mixing Only 5
 2879 Pesticides and Agricultural
 Chemicals, Not Elsewhere
 Listed
 5-9
 2891 Adhesives and Sealants
 5-8
 2892 Explosives 6-9

2893 Printing Ink 2-5
2895 Carbon Black 1-3
2899 Chemicals and Chemical
Preparations, Not Elsewhere
Listed 3-9

29 PETROLEUM REFINING AND
RELATED INDUSTRIES

291 Petroleum Refining 8
295 Paving and Roofing
Materials 7
299 Misc. Petroleum and Coal
Products 7

30 RUBBER AND MISCELLANEOUS
PLASTICS PRODUCTS

301 Tires and Inner Tubes 6
302 Rubber and Plastic Footwear 6
303 Reclaimed Rubber 6
304 Rubber and Plastic Hose
and Belting 4
306 Fabricated Rubber Products,
Not Elsewhere Classified 4

31 I-LEATHER AND LEATHER PRODUCTS

311 Leather Tanning and Finishing 8
(Remaining Three-Digit Codes) 1 - 3

32 STONE, CLAY, GLASS, AND
CONCRETE PRODUCTS

321 Flat Glass 4
322 Glass and Glassware,
Pressed or Blown 4
324 Cement, Hydraulic 3
3274 Lime 3
3291 Abrasive Products 3
3292 Asbestos 3
3293 Gaskets, Packing, and
Sealing Devices 3

33 PRIMARY METAL INDUSTRIES
(Except as Noted Below) 3

- 3312 Blast Furnaces, Steel Works
and, Rolling and Fixushing
Mills 6
- 333 Prima~' Smelting and
Refining of Nonferrous Metals 7

-
- 34 FABRICATED METAL PRODUCTS,
EXCEPT MACHINERY AND TRANS
PORTATION EQUIPMENT ~xcept
is noted Below) 5
 - 347 Coating, Engraving, and
Allied Services 8
 - 3482 Small Arms Ammunition 7
 - 3483 Ammunition, Except for Small
Arms, Not Elsewhere Classified 7
 - 3489 Ordnance and Accessories,
Not Elsewhere Classified 7
 - 349 Misc. Fabricated Metal
Products 3-6

-
- 35 MACHINERY, EXCEPT ELECTRICAL , 5-7

- 36 ELECTRICAL AND ELECTRONIC
MACHINERY, EQUIPMENT AND
SUPPLIES ~xcept as Noted
Below)
- 3691 Storage Batteries 8
- 3692 ~ Batteries, Dry
and Wet 8
- 37 ThANSPORT~ON EQUIPMENT 5-8
- 38 MEASURING, ANALYZING, AND
CONTROLLING INSTRUMENTS;
PHOTOGRAPHIC, MEDICAL, AND
OFFICIAL GOODS; WATCHES AND
CLOCKS ~xcept as Noted
Below) 4-6
- 386 Pliotographic Equipment
and Supplies 7

- 39 MISCELLANEOUS MANUFA~FURING
INDUSTRIES 3-7

49 ELECTRIC, GAS, AND SANITARY
SERVICES

491 Electric Services 3-5

492 Gas Production and
Distribution 3

494 Water Supply 2

4952 Sewage Systems 2-5

4953 Refuse Systems (Landfills) 5-9

496 Steam Supply 2-4

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TABLE 2

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY TYPE

HAZARD POTENTIAL ID*

DESCRIPTION INITIAL READING NUMBER

8000

Metals 1-4 1100

Non-Ferrous Metals 1-7 1200

Resins, Plastics, and Rubbers 2 1300

Wood and Paper Materials (except as
noted below 2 1400

Bark 4 1401

Textiles and Related Fibers 2 1500

Inert Materials (except as noted below) 2 1600

Sulfide Mineral-Bearing Mine
Tailings 6 1601
Slag and Other Combustion Residues 5 1602
Rubble, Construction, and Demolition
Mixed Waste 3 1603
Animal Processing Wastes (except as noted
below) 2-4 1700
Processed Skins, Hides, and
Leathers 6 1701
Dairy Wastes 4 1702
Live Animal Wastes-Raw Manures
(Feedlots) 5 1703
Composts of Animal Waste 2-4 1704
Dead Animals 5 1705
Edible Fruit and Vegetable Remains 2-3 1800
Putrescibles

LIQUIDS

Organic Chemicals (must be chemically
classified)

Aliphatic (~atty) Acids
Aromatic (~enzene) Acids
Resin Acids
Alcohols
Aliphatic Hydrocarbons
(petroleum derivatives)
Aromatic Hydrocarbons (benzene
derivatives)
Sulfonated Hydrocarbons
Halogenated Hydrocarbons
Alkaloids
Aliphatic Amines and Their Salts
Anilines
Pyridines
Phenols
Aldehydes
Ketones
Organic Sulfur Compounds
(Sulfides, Mercaptans)
Organometallic Compounds
Cyanide 5
Thiocyanides

3-5
7-8

5-7
2000
2001
2002
2003
2004
46 2005

6-8 2006
7-8 2007
7-9 2008
7-9 2009
1-4 2010
6-8 2011
2-6 2012
7-9 2013
6-8 2014
6-8 2015
1-9 2016
7.9 2017
7-9 2018
2-6 2019

Sterols - 2020

Sugars and Cellulose Esters

Inorganic chemicals (must be
chemically classified)

Mineral and Metal Acids

Mineral and Metal Bases

Metal Salts, Including Heavy Metals

Oxides

Sulfides

Carbon or Graphite Process Wastes not

Previously Listed (must be chemically
classified)

Inks

Dyes

Paints

Adhesives

Pharmaceutical Wastes

Petrochemical Wastes

Metal Treatment Wastes

Solvents

Agricultural Chemicals (Pesticides Herbicides, Fungicides, etc.)

Waxes and Tars

Fermentation and Culture Wastes oils, Including Gasoline, Fuel

oil, etc.

Soaps and Detergents

Other Organic or Inorganic

Chemicals, includes Radioactive Wastes

Conventional Treatment Process Municipal Sludges

Other Chemical

From Biological Sewage Treatment

From Water Treatment and Conditioning Plants (must be chemically classified)

14 2021

2022

2100

5-8 2101

5-8 2102

2103

5-8 2104

5-8 2105

1-3 2106

2200

2-5 2201

3-8 2202

5-8 2203

5-8 2204

6-9 2205

7-9 2206

7-9 2207

2208

7-9 2209

4-7 2210

2-5 2211

5-8 2212

4-6 2213

4-8 2300

4-8 2301

2-5 2302

DID Number is for identification of waste types in the Reporting Form.

1. Classification based on material in Environmental Protection Agency Publication, 670-2-75-024, pp.79-85, prepared by Arthur D. Little, Inc., and published in 1975.

2. For individual material ranking, refer to solubility-toxicity tables prepared by Versar, Inc., for the Environmental Protection Agency (source: MDNR, June 1980).

Source: WMSRDC. A Pollutant Nature Sampling Plan for Groundwater Contamination in Region 14 muskegon, Mich.: West Michigan Shoreline Regional Development Commission, November 1980).

Accepted by Vandalia Planmng Commission

3/27,90

City of Vandalia
Montgomery Coutny, Ohio

ORDINANCE NO 90-08.

Supplementing the Revised Code of General Ordinances By the Enactment of Chapter 1232, Sections 1232.051 through 1232.056 to Provide for Control of Potential Public Water Supply Pollutants and Providing Penalties for Violations Thereof.

WHEREAS, the ground water in the aquifer underlying the Miami Valley and portions of the City of Vandalia is the source of drinking water supply in this area and ground water is a Sensitive natural resource; and

WHEREAS. the City desires to approach public water supply and well field protection in a rational and objective manner by instituting pollution source controls; and

WHEREAS, the City desires to regulate potential pollutants to the fullest extent authorized by law by enacting this legislation as a measure to ensure the protection and availability of public drinking water supplies; and

WHEREAS, the City desires to assume and maintain a leadership role in protection of regional drinking water resources through its own efforts and in cooperation with other local governments and state and federal agencies; and

WHEREAS, it is determined that such legislation is consistent with the city's policy of protecting the water resources; and

WHEREAS, in order to achieve the timely implementation of the ordinances set forth herein for the prevention of contamination of the water supply and the protection of public health, it is necessary that this ordinance take effect at an early date; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF ThE City of VANDALIA

Section 1. That Chapter 1232) Section 1232051 through 1232.056 of the Revised Code of General Ordinances be enacted as follows:

Section 1232.051 PUBLIC WATER SUPPLY REGULA'fIONS AND PENALTIES

(A) PURPOSE

The purpose of Sections 1232.051 through 1232.056 is to safeguard the public health, safety and welfare and to provide for the protection and availability of existing and future potable water supply by instituting rational and objective requirements, standards and criteria for the control of toxic or otherwise hazardous substances within specifically defined areas in and around the present and future wells and well fields of the City of Dayton and/or any other protected public water supplies, thereby enhancing the protection of the public potable water supply from contamination.

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B) SCOPE

(1) The provisions of Sections 1232.051 through 1232.056 shall be effective within the city of Vandalia corporate limits within designated WP Well Field Protection Overlay Districts as shown on the Official Zoning District Map, except as otherwise provided. This ordinance provides for pollution control pertaining to the public water supply.

(2) Nothing contained in Sections 1232.051 through 1232.056 shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this ordinance.

(C) ADMINISTRATION

Except as otherwise provided herein, the Administrative Officer for the City of Vandalia, or his designee, hereinafter referred to as Administrative Officer, shall administer, implement, and enforce the provisions of Section 1232.051 through 1232.056.

(D)

NOTICE OF VIOLATION

(1) Any person found in violation of any provisions of Sections 1232.051 through 1232.056 or any order, requirement, rule or regulation issued under the authority of such sections will be served with a written notice stating the nature of the violation and providing a reasonable time for compliance; provided however, written notice of violation may be dispensed with under the conditions described in Section 1232.053(B) and provided further, that if the Administrative Officer has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Administrative Officer may dispense with establishing another time period for compliance.

(2) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the County tax record.

(E) INSPECTIONS

Subject to applicable provisions of law, the Administrative Officer or authorized designee

bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this ordinance to ensure that activities are in accordance with the provisions of Sections 1232.051 through 1232.056. Upon request of the entity which is the subject of the inspection and if permitted by the Ohio Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the Administrative Officer for the above stated purposes, the Administrative Officer may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

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(F) VANDALISM

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with water facilities of the City of Vandalia and/or any other protected public water supply, or which results in the violation of Sections 1232.051 through 1232.056.

(G) SEVERABILITY

A finding by any court or other jurisdiction that any part or provision of this ordinance is invalid shall not affect the validity of any other part or provision of this ordinance which can be given effect without the invalid parts or provisions.

(H) SUBJECT AREA

(1) The area subject to the provisions of Sections 1232.051 through 1232.056 is the Well Field Protection Overlay District as shown on the official Zoning Map of the City of Vandalia, Ohio.

(2) Maps designating the Well Field Protection Overlay District shall be included in The Official Zoning Map for the City of Vandalia, Ohio.

(I) DETERMINATION OF APPLICABILITY

It shall be the responsibility of any person owning real property and/or owning or operating a business within the City of Vandalia corporate limits to make a determination of the applicability of Sections 1232.051 through 1232.056 as it pertains to the property and/or business under his/her ownership or operation and his/her failure to do so shall not excuse any violation of said sections.

Section 1232.052 REGULATED SUBSTANCES

(A) DEFINITION

The substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals which are health hazards. Regulated Substances include:

(1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1) per cent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) per cent or greater of the composition on a weight per weight basis.

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(4) In cases where ingredients of mixtures are compared within the Well Field Protection Overlay District where such ingredients are health hazards, but comprise less than one tenth of one (0.1) percent of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one (1) per cent of the mixture (on a weight per unit weight basis) if non-carcinogenic, only the volume or weight of the ingredient and not the volume or weight of the whole mixture shall be considered.

(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

B) MANAGEMENT

(1) No person shall place, deposit, or permit to be deposited, store, process, use, produce or dispose of, transport, or discharge, hereinafter referred to as "handle," any regulated substance on public or private property within designated WP Well Field Protection Overlay Districts as shown on the Official Zoning District Map of the City of Vandalia except as provided by law, statute, ordinance, rule or regulation.

(2) Any Violation of Division b)(1) of this Section is hereby determined to be a nuisance.

Section 1232.053 REPORTING And PROTECTION REQUIREMENTS

(A) REGULATED SUBSTANCE ACTIVITY INVENTORY

(1) Applicability

(a) Except as provided in Section 1232.053(A)(2), any owner or occupant of any land in the Well Field Protection Overlay District at the effective date of this section, shall file a Regulated Substance Activity Inventory Report with the Administrative Officer. Said Report shall be filed within one hundred and eighty (180) days of the effective date of this section and at twenty-four (24) month intervals thereafter.

B) Except as provided in Section 1232.053(A)(2), any new owner or occupant of any land in

the Well Field Protection Overlay District shall file a Regulated Substance Activity Inventory Report prior to receipt of a Certificate of Occupancy and at twenty-four (24) month intervals following the date of occupancy. For purposes of this section, new shall be defined as subsequent to the effective date of this section.

(c) Where a person owns, operates or occupies more than one location, Regulated Substance Activity Inventory Reports shall be made for each location.-

(2) Exclusions to Activity Inventory Reporting

(a) Any exclusion set forth in this subsection shall apply provided that said exclusion does not substantially increase any risk or hazard to the public health or water supply, wells or well fields; and provided further that any spill, leak, discharge, or mishandling shall be subject to the provisions of Section 1232.053~). Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved.

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b~) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for incidental uses of Regulated Substances provided the uses are limited as follows:

(1) The aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.

(2) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(c) A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for non-routine maintenance or repair of property in the Well Field Protection Overlay District provided the uses are limited as follows:

(1) The aggregate of Regulated Substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(2) The total use of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(d) A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for Regulated Substances which are cleaning agents, provided however such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall Regulated Substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(e) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for medical and research laboratory uses in the Well Field Protection Overlay District provided however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.

(f) An exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for the transportation of Regulated Substances through the Well Field Protection Overlay District provided -that the transportation vehicle is in compliance with applicable city ordinances and Federal and Ohio laws and regulations, and provided that the regulated substance is fueling the transportation vehicle or the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed seventy-two (72) hours.

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g) A limited exclusion from regulated substances activity inventory reporting is hereby authorized for regulated substances that are contained within tanks that are designed as an integral part of the motor vehicle, and used specifically and solely for the operation of the motor vehicle. Except as provided for in Section 1232.053(A)(2)(f), in no case shall the tanker portion of a tractor-trailer truck be included in this exclusion.

(h) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for owners and occupants of single or two-family residences provided, however, the storage and use of Regulated Substances are related to the maintenance of the residence or vehicles under control of the occupant and provided waste Regulated Substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly owned wastewater treatment works.

(B) SPILLS, LEAKS OR DISCHARGES

(1) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Well Field Protection Overlay District shall, if such spill, leak or discharge escapes containment, contact a non-impervious ground surface and is not immediately and completely remediated, give notice to the City Service Director for the City of Vandalia, and the operator on duty at the affected Water Treatment facility by telephone within thirty (30) minutes. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, State, and Federal reporting obligations as required by law.

(2) Any entity or person who spills, leaks or discharges said substances(s) shall be liable for any reasonable expense, loss or damages incurred by the City of Vandalia in response to such an incident, in addition to the amount of any fines imposed on account thereof under Ohio and Federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of recurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(C) UNDERGROUND STORAGE TANKS

(1) Definition

An underground storage tank is any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10%) percent or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the Health Department or Ohio Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.

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(2) Well Field Protection Overlay District

(a) With the exception of residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, no storage of Regulated Substances, other than for vehicle fuel and vehicle lubricants and fuel for building and/or process heating may occur in underground storage tank systems in the Well Field Protection Overlay District, five (5) years from the effective date of this Article.

b) With the exception of residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, five (5) years from the effective date of this Article, underground storage tank systems for vehicle fuel and vehicle lubricants and fuel for building and/or process heating in the Well Field Protection Overlay District must be secondarily contained and monitored in accordance with plans submitted to and approved by the Administrative Officer.

FALSIFYING INFORMATION

No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this ordinance.

(E) RETENTION OF RECORDS

Any reports or records compiled or submitted pursuant to this section shall be maintained by the user for a minimum of five (5) years or so long as enforcement or judicial proceedings are being

pursued, whichever is longer.

Section 1232.054 PUBLIC WATER SUPPLY PROTECTION AUTHORITIES

(A) APPLICATION

If any activity or use of Regulated Substance is deemed by the Administrative Officer to pose a real and present danger of contaminating surface and/or ground water which would normally enter the public water supply, in accordance with Section 713.15 (O.R.C.) the Administrative Officer is authorized to:

1. Cause cessation of said activity or use of the Regulated Substance;
2. Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or
3. Cause the provision of pollution control and/or abatement activities.

B) CONSIDERATIONS

When considering the exercise of any of the above authorities or actions, the Administrative Officer shall consult with the appropriate administrative official of any affected protected public water supply. The Administrative Officer shall determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. The Administrative Officer may take into consideration any evidence represented by the responsible party regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

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(C) EXEMPTIONS OF CERTAIN REGULATED SUBSTANCES

The Administrative Officer is authorized to exclude certain regulated substances, that pose no threat to groundwater, from the provisions of this Article. Prior to authorizing the exemption of any regulated substance, the Administrative Officer shall have such request for exemption reviewed by the City of Dayton's Environmental Advisory Board (E.A.B.) unless another Board is appointed by the City Council or the City of Vandalia. The recommendation of the E.A.B. shall be binding on the Administrative Officer.

TECHNICAL CONSULTANTS

Upon application for a zoning Permit and/or Occupancy Certificate and/or Occupancy Certificate for a use within the "WP" Well Field Protection Overlay District, the Administrative Officer may employ such technical expertise as needed to ensure compliance with the provisions of this Chapter. All costs incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the City to review a Zoning Permit and or Occupancy Certificate.

Section 1232.055 WELL FIELD PROTECTION ENVIRONMENTAL ADVISORY BOARD

(A) APPEALS

Any person may appeal an action of the Administrative Officer made pursuant to Section 1232.054 by filing with the City Manager a Notice of Appeal within twenty-one (21) days of said action and a statement of appeal within thirty (30) days of the date that the order being appealed was issued. A Notice of Appeal shall include at a minimum: name; address; telephone number; date; and a statement of intent to appeal. A Statement of Appeal shall include all information contained in the Notice of Appeal, a description of the nature of the appeal, and any pertinent documentation.

APPEALS BOARD

The City of Vandalia Board of Zoning Appeals established under Chapter 1234 is hereby authorized to hear Well Field Protection Overlay District Cases. Said Board shall have the authority to deny, uphold or otherwise modify or waive the Administrative Officer's actions on a case-by-case basis.

1232.056 PENALTIES FOR VIOLATIONS

(A) VANDALISM

A violation of the provisions of Section 1232.051(f) shall constitute a minor misdemeanor punishable as provided in Section 1232.99.

B) OTHER VIOLATIONS

Any person who violates or continues to violate any provisions other than Section 1232.051(f) beyond the time limit for compliance set forth by the Administrative Officer, Notice of Violation or compliance schedule established by the Administrative Officer, shall constitute a minor misdemeanor punishable as provided in Section 1232.99.