

Chapter 929
Wellhead and Well Field Protection Regulations

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929.01 PURPOSE AND SCOPE OF CHAPTER.

(a) The purpose of this Chapter is to implement the City's powers conferred under Section 3750.11 of the Ohio Revised Code to provide for the protection of the City's ground water resources that serve as a source of drinking water for the City's public water system and that are located within the scientifically derived wellhead protection areas established by the City.

(b) The regulations adopted in this Chapter are adopted for the purpose of safeguarding the public health, safety and welfare of the community, the health, safety and welfare of the City's water customers and to protect the community's potable water supply against contamination from existing and future potential pollution sources by regulating nuisances and the storage, handling, use and/or production of those substances which could pose a threat to the City's wellheads and well field located along the Mad River in the Township of German, County of Clark, State of Ohio.

(c) Nothing in this Chapter should be construed to apply the provisions of this Chapter to facilities owned or operated by the City or to any of the City's operations. (Ord. 99-52. Passed 2-16-99.)

929.02 DEFINITIONS.

For purposes of this Chapter, the following terms, phrases and words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as defined in this Section 929.02. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Aboveground Storage Tank" means any one or combination of tanks (including aboveground 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 less than ten (10) percent beneath the surface of the ground. Flow-through process tanks regulated by the Ohio Environmental Protection Agency or by the Ohio Fire Marshal are excluded from the definition of aboveground storage tank.
- (b) "Agricultural Chemicals" means pesticides and fertilizers.
- (c) "Aquifer" means a porous, water-bearing geologic formation composed of materials capable of yielding significant quantities of water.
- (d) "Best management practices" means activities, prohibitions or practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of Ohio. Best management practices also include treatment, operating procedures, and practices to control site runoff, spillage or leaks [i.e. releases], sludge or waste disposal, or drainage from raw material storage.
- (e) "Certified Applicator" means any person certified to apply pesticides by Ohio's Director of Agriculture.
- (f) "Chapter" or "this Chapter" means this Chapter 929 of the Codified Ordinances of the City, as amended from time to time, and any Regulations adopted hereunder.
- (g) "City" means The City of Springfield, Ohio, or, as appropriate in the case of specific provisions of this Chapter, any board, bureau, authority, agency, commission, department, or any other entity of or acting on behalf of The City of Springfield, Ohio or any officer, official, employee, representative or agent thereof the designee of any of the foregoing, or any successor thereto.
- (h) "City Manager" means the City Manager of the City.
- (i) "Commission" means the City Commission of the City.
- (j) "Service Director" means the Director of Service Department of the City.
- (k) "Health Commissioner" means the Health Commissioner of the Clark County Combined Health District.
- (l) "Injection well" means a well into which fluids are or can be injected, as further described in Ohio Administrative Code Section 3745-34-04; provided that the term injection well shall not apply to the following:
 - (1) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump when there is no potential for the water used for heating and cooling to be contaminated with a regulated substance,
 - (2) Cooling water return flow wells used to inject water previously used for cooling when there is no potential for the water used for cooling to be contaminated with a regulated substance,
 - (3) Drainage wells used to drain primarily storm runoff, into a subsurface formation, and

- (4) Recharge wells used to replenish the water in an aquifer.
- (m) "ISO-Travel Time Contour" means 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.
- (n) "MSDS sheet" means a material safety data sheet prepared in compliance with 29 CFR 1910.1200 and written in English.
- (o) "Person" means any natural person or any association, firm, partnership, limited liability company, trust, joint venture, corporation or other legally recognized entity, whether for-profit or not-for-profit.
- (p) "Pesticide" means any substance or mixture of substances intended for either of the following:
- (1) Preventing, destroying, repelling, or mitigating any pest;
 - (2) Use as a plant regulator, defoliant, or desiccant.
- (q) "Potable Water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- (r) "Protected Public Water Supply" means a public water system which services at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents, and having a time-of-travel area(s) defined through appropriate hydrologic studies.
- (s) "Public nuisance" means any building, structure, excavation, basement, cellar, well, cistern, storage area or any part thereof, or any item of personal property or any activity located in the Primary or Secondary Areas which creates or poses a danger to the City's wellheads and/or well fields.
- (t) "Reduced pressure principle backflow prevention device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks.
- (u) "Regulated Substances" means chemicals and mixtures of chemicals which are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not regulated substances. 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 (1.0) 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) Ingredients of mixtures prepared within the Primary or Secondary Areas in cases 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 per unit weight basis if non- carcinogenic.
- (5) Petroleum, petroleum-based products and non-solid petroleum derivatives (except non-polychlorinated biphenyl dielectric fluids).
- (6) Antifreeze, transmission fluids, brake fluids and coolants.
- (7) Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon of halogenated hydrocarbon solvents.
- (8) Inks, printing and photocopying chemicals and waste rags used for solvent-based cleaning.
- (9) Organic pigments.
- (10) Liquid storage batteries.
- (11) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges and paint filters.
- (12) Corrosion and rust prevention solutions.
- (13) Industrial and commercial cleaning supplies, including drain cleaners.
- (14) Sanitizers, disinfectants, bactericides and algicides.
- (15) Pesticides, herbicides, and fertilizers.
- (16) Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5.
- (17) Aqueous metals.
- (18) Substances listed in the following regulations:
 - (A) 40 CFR Part 355, Appendix A [List of Extremely Hazardous Substances]
 - (B) 40 CFR Part 302, Table 302.4 [List of Hazardous Substances and Reportable Quantities for Releases]
 - (C) 40 CFR Part 372, Subpart D [Toxic Chemical Listing]
 - (D) Ohio Administrative Code Section 3745-100-10.
- (v) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank, container or other thing or area intended to confine a regulated substance, in an amount of five (5) gallons or of fifty (50) pounds or more into ground water, surface water or subsurface soils or otherwise into the environment.
- (w) "Underground Storage Tank" means 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 regulated by the Ohio Environmental Protection Agency or by the Ohio Fire Marshal and septic tanks approved by the Clark County Combined Health District, as applicable, are excluded from the definition of underground storage tank.
- (x) "Well Field" means a tract of land that contains a number of wells for supplying potable water used for human or animal consumption.
- (y) "Zone of Influence" means a zone delineated by ISO-travel time contours around well fields. The zone is calculated, based on the rate of movement of groundwater in the vicinity of wells.
(Ord. 99-52. Passed 2-16-99.)

929.03 DESIGNATION OF WELLHEAD PROTECTION AREAS.

(a) A One-Year Time of Travel Wellhead Protection Area, sometimes hereinafter called the "Primary Area," is hereby designated consisting of all lands within the one-year time of travel zone of influence for the City's wellheads, bounded and described as follows:

Situate in the State of Ohio, County of Clark and lying within the Townships of German and Moorefield and the City of Springfield and being part of Sections 2 and 3, Town 4, Range 10 and Sections 32 and 33, Town 5, Range 10, B.M.R.S. and being further described as follows; Beginning at a point on the north line of said Section 2, said point bears N 8942'26" E, 508.13 feet from the northwest corner of said section 2;

thence N 1253'43" E, 322.22 feet to a point; thence N 2634'56" E, 435.83 feet to a point;
 thence N 3514'17" E, 450.69 feet to a point; thence N 4823'17" E, 521.70 feet to a point;
 thence N 6127'01" E, 530.21 feet to a point; thence N 6707'30" E, 652.79 feet to a point;
 thence N 7254'34" E, 545.34 feet to a point; thence N 7917'41" E, 503.28 feet to a point;
 thence N 8618'41" E, 415.19 feet to a point; thence N 8827'11" E, 494.71 feet to a point;
 thence S 8350'04" E, 497.40 feet to a point; thence S 7740'12" E, 437.80 feet to a point;
 thence S 7403'58" E, 389.19 feet to a point; thence S 7012'54" E, 355.10 feet to a point;
 thence S 6143'02" E, 394.61 feet to a point; thence S 5208'46" E, 304.69 feet to a point;
 thence S 4614'26" E, 444.13 feet to a point; thence S 3551'30" E, 296.62 feet to a point;
 thence S 2837'43" E, 334.74 feet to a point; thence S 2009'01" E, 426.79 feet to a point;
 thence S 1445'15" E, 262.41 feet to a point; thence S 1146'37" E, 327.42 feet to a point;
 thence S 1232'17" E, 246.27 feet to a point; thence S 1119'06" E, 204.30 feet to a point;
 thence S 2238'07" E, 173.64 feet to a point; thence S 3653'27" E, 200.39 feet to a point;
 thence S 5121'41" E, 171.11 feet to a point; thence S 5800'51" E, 252.13 feet to a point;
 thence S 4200'31" E, 179.74 feet to a point; thence S 3126'56" E, 281.79 feet to a point;
 thence S 0928'10" E, 243.72 feet to a point; thence S 0424'07" W, 174.13 feet to a point;
 thence S 3229'27" W, 174.17 feet to a point; thence S 4718'44" W, 236.38 feet to a point;
 thence S 5717'04" W, 222.40 feet to a point; thence S 6143'02" W, 197.31 feet to a point;
 thence S 7134'41" W, 253.57 feet to a point; thence S 8152'33" W, 189.01 feet to a point;
 thence S 8317'43" W, 228.78 feet to a point; thence S 8339'52" W, 242.06 feet to a point;
 thence S 8102'02" W, 257.09 feet to a point; thence S 7403'58" W, 194.59 feet to a point;
 thence S 6812'49" W, 71.97 feet to a point; thence S 6649'02" W, 305.33 feet to a point;
 thence S 5732'54" W, 174.23 feet to a point; thence S 5309'03" W, 334.05 feet to a point;
 thence S 4730'40" W, 217.50 feet to a point; thence S 3514'17" W, 277.98 feet to a point;
 thence S 3216'37" W, 158.76 feet to a point; thence S 4134'27" W, 164.84 feet to a point;
 thence S 4251'38" W, 210.29 feet to a point; thence S 5019'20" W, 193.15 feet to a point;
 thence S 5413'02" W, 210.90 feet to a point; thence S 6137'30" W, 235.90 feet to a point;
 thence S 6742'32" W, 236.45 feet to a point; thence S 7244'47" W, 217.34 feet to a point;
 thence S 7823'49" W, 209.02 feet to a point; thence S 8807'37" W, 207.00 feet to a point;
 thence S 8856'24" W, 136.65 feet to a point; thence N 8805'32" W, 151.89 feet to a point;
 thence N 8017'38" W, 284.93 feet to a point; thence N 7225'57" W, 268.05 feet to a point;
 thence N 6457'56" W, 256.91 feet to a point; thence N 5903'19" W, 132.75 feet to a point;
 thence N 5837'44" W, 174.84 feet to a point; thence N 4823'17" W, 243.66 feet to a point;
 thence N 4750'13" W, 109.23 feet to a point; thence N 4319'13" W, 180.71 feet to a point;
 thence N 3444'57" W, 270.78 feet to a point; thence N 2856'13" W, 138.03 feet to a point;
 thence N 2710'02" W, 227.56 feet to a point; thence N 2716'23" W, 192.73 feet to a point;
 thence N 3302'37" W, 123.85 feet to a point; thence N 3342'36" W, 112.33 feet to a point;
 thence N 4018'49" W, 313.16 feet to a point; thence N 4056'09" W, 309.22 feet to a point;
 thence N 3629'24" W, 148.51 feet to a point; thence N 3436'45" W, 182.91 feet to a point;
 thence N 2656'43" W, 366.86 feet to a point; thence N 2148'59" W, 251.62 feet to a point;

thence N 1543'12" W, 345.14 feet to a point; thence N 0718'16" W, 182.24 feet to a point; thence N 0413'02" W, 617.53 feet to a point; thence N 0247'41" W, 133.05 feet to a point; thence N 0108'48" E, 162.10 feet to a point; thence N 0251'52" E, 129.82 feet to a point; thence N 1108'40" E, 163.47 feet to the place of beginning; containing 892.520 acres, more or less.

(b) A Five-Year Time of Travel Wellhead Protection Area, sometimes hereinafter called the "Secondary Area," is hereby designated consisting of all lands within the five-year time of travel zone of influence for the City's wellheads, bounded and described as follows:

Situate in the State of Ohio, County of Clark and lying within the Townships of German and Moorefield and the City of Springfield and being part of Sections 1, 2, 3, 4, 8, 9 and 10, Town 4, Range 10 and Sections 26, 27, 28, 31, 32, 33 and 34, Town 5, Range 10, B.M.R.S. and being further described as follows:

Beginning at a point on the north line of said Section 8, said point bears N 8942'57" W, 225.54 feet from the northeast corner of said section 8;

thence N 0506'54" E, 214.73 feet to a point; thence N 0048'27" W, 209.87 feet to a point; thence N 0126'48" W, 271.97 feet to a point; thence N 0431'03" W, 311.83 feet to a point; thence N 0458'24" W, 377.73 feet to a point; thence N 0654'59" W, 271.94 feet to a point; thence N 1102'57" W, 341.74 feet to a point; thence N 1402'47" W, 269.85 feet to a point; thence N 1523'14" W, 339.39 feet to a point; thence N 1630'58" W, 230.38 feet to a point; thence N 1938'17" W, 343.26 feet to a point; thence N 2238'07" W, 319.08 feet to a point; thence N 2358'43" W, 322.32 feet to a point; thence N 4112'27" W, 86.99 feet to a point; thence N 3245'17" W, 136.18 feet to a point; thence N 2513'05" W, 153.72 feet to a point; thence N 1437'53" W, 194.46 feet to a point; thence N 0243'42" W, 171.99 feet to a point; thence N 1007'56" E, 232.69 feet to a point; thence N 2148'59" E, 220.29 feet to a point; thence N 3810'42" E, 291.39 feet to a point; thence N 5511'45" E, 229.32 feet to a point; thence N 6812'49" E, 220.41 feet to a point; thence N 6941'28" E, 235.70 feet to a point; thence N 6327'08" E, 329.46 feet to a point; thence N 5852'49" E, 459.03 feet to a point; thence N 5122'04" E, 293.45 feet to a point; thence N 5538'24" E, 376.86 feet to a point; thence N 6057'50" E, 252.82 feet to a point; thence N 6623'11" E, 285.92 feet to a point; thence N 7055'12" E, 225.23 feet to a point; thence N 7254'34" E, 222.69 feet to a point; thence N 7841'54" E, 250.46 feet to a point; thence N 7942'10" E, 183.06 feet to a point; thence N 8525'45" E, 307.97 feet to a point; thence S 8805'32" E, 245.74 feet to a point; thence S 8704'00" E, 319.70 feet to a point; thence S 7923'18" E, 399.80 feet to a point; thence S 7229'13" E, 326.22 feet to a point; thence S 6707'30" E, 399.85 feet to a point; thence S 6039'39" E, 300.53 feet to a point; thence S 5835'23" E, 345.33 feet to a point; thence S 6016'26" E, 263.97 feet to a point; thence S 6758'44" E, 370.90 feet to a point; thence S 7157'08" E, 396.08 feet to a point; thence S 8016'47" E, 290.71 feet to a point; thence S 8326'51" E, 358.45 feet to a point; thence S 9000'00" E, 515.77 feet to a point; thence N 8821'53" E, 573.31 feet to a point; thence N 8557'55" E, 697.61 feet to a point; thence N 8246'07" E, 519.90 feet to a point; thence N 8133'04" E, 612.47 feet to a point; thence N 7751'53" E, 661.54 feet to a point; thence N 7503'06" E, 444.00 feet to a point; thence S 8433'50" E, 172.70 feet to a point; thence S 6039'38" E, 150.26 feet to a point; thence S 4501'18" E, 162.03 feet to a point; thence S 2414'39" E, 179.44 feet to a point; thence S 0251'52" E, 163.82 feet to a point; thence S 1739'46" W, 188.88 feet to a point; thence S 0107'27" W, 417.29 feet to a point; thence S 0356'55" E, 594.45 feet to a point; thence S 0442'08" E, 599.20 feet to a point; thence S 0748'22" E, 602.77 feet to a point; thence S 0918'01" E, 455.93 feet to a point; thence S 0557'05" E, 394.80 feet to a point; thence S 0217'32" W, 409.36 feet to a point; thence S 0810'07" W, 633.81 feet to a point;

thence S 1232'16" W, 301.70 feet to a point; thence S 0736'01" W, 495.19 feet to a point;
thence S 0604'37" W, 386.66 feet to a point; thence S 0052'07" W, 539.98 feet to a point;
thence S 0159'58" E, 703.96 feet to a point; thence S 0624'09" E, 367.08 feet to a point;
thence S 1826'53" E, 310.46 feet to a point; thence S 3939'56" E, 371.95 feet to a point;
thence S 5933'12" E, 322.88 feet to a point; thence S 4614'26" E, 272.04 feet to a point;
thence S 2543'37" E, 245.18 feet to a point; thence S 0212'16" E, 212.85 feet to a point;
thence S 1756'26" W, 292.36 feet to a point; thence S 2925'33" W, 516.58 feet to a point;
thence S 3629'24" W, 702.10 feet to a point; thence S 4409'28" W, 611.10 feet to a point;
thence S 5409'03" W, 656.51 feet to a point; thence S 6009'35" W, 509.66 feet to a point;
thence S 6840'40" W, 562.45 feet to a point; thence S 7337'20" W, 435.19 feet to a point;
thence S 8128'32" W, 496.69 feet to a point; thence S 8634'08" W, 410.08 feet to a point;
thence N 8727'25" W, 368.77 feet to a point; thence N 8300'14" W, 470.15 feet to a point;
thence N 8125'22" W, 438.81 feet to a point; thence N 8716'33" W, 344.23 feet to a point;
thence S 8833'29" W, 325.09 feet to a point; thence S 8105'30" W, 422.62 feet to a point;
thence S 8331'18" W, 362.53 feet to a point; thence S 8555'03" W, 229.81 feet to a point;
thence N 8849'54" W, 401.24 feet to a point; thence N 8448'34" W, 361.70 feet to a point;
thence N 8105'30" W, 422.63 feet to a point; thence N 7440'40" W, 526.29 feet to a point;
thence N 6832'17" W, 536.60 feet to a point; thence N 6327'08" W, 567.41 feet to a point;
thence N 5509'57" W, 558.55 feet to a point; thence N 4937'17" W, 505.11 feet to a point;
thence N 4300'43" W, 660.08 feet to a point; thence N 3650'57" W, 414.97 feet to a point;
thence N 3031'08" W, 693.22 feet to a point; thence N 2212'20" W, 671.53 feet to a point;
thence N 1509'54" W, 406.84 feet to a point; thence N 1104'42" W, 383.45 feet to a point;
thence N 0756'58" W, 355.18 feet to a point; thence N 0229'29" W, 376.66 feet to a point;
thence N 0124'57" W, 331.36 feet to a point; thence N 0742'07" E, 305.44 feet to a point;
thence N 0245'34" E, 281.23 feet to the place of beginning, containing 2910.635 acres, more
or less,
and excluding therefrom the lands contained within the Primary Area.
(Ord. 99-52. Passed 2-16-99.)

929.04 PRIMARY AREA REGULATIONS.

(a) Prohibited Activities. The storage and production of regulated substances and the operation of sanitary landfills, landfills comprised of demolition debris, salvage yards and junkyards are prohibited within the Primary Area; unless such activity or facility has been granted a license by the State of Ohio to operate or unless a variance has been granted pursuant to Section 929.17.

(b) Use of regulated substances in conjunction with activities conducted within the Primary Area are limited as follows; unless a variance has been granted pursuant to Section 929.17:

- (1) The aggregate of regulated substances, other than agricultural chemicals, in use may not exceed fifty-five (55) gallons or four hundred forty (440) pounds at any one time.
- (2) The use of agricultural chemicals (labeled for use and sale by licensed personnel) shall be conducted by using best management practices.

(c) Notwithstanding other provisions of Subsection 929.04(a), underground storage tanks, which exist on the effective date of this Chapter, which are located within the Primary Area, which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use. Replacement of underground storage tanks is prohibited within the Primary Area with the exception of underground storage tanks regulated by the Ohio Fire

Marshall, Bureau of Underground Storage Tank Regulation (BUSTR) and with the exception of heating fuel tanks in residential use having a capacity equal to or less than five hundred fifty (550) gallons; provided that these exceptions shall apply only to tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks.

(d) An exclusion from the provisions of Subsection 929.04(b) is applicable to regulated substances which are cleaning agents; provided, however that 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 further, that the aggregate inventory of such cleaning agents shall not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall this exclusion apply to hydrocarbon or halogenated hydrocarbon solvents.

- (e) An exclusion from the provisions of Subsection 929.04(b) is applicable to:
- (1) on-site use of building materials and paving materials in a mobile container temporarily on-site for purposes of installing or applying the building materials or paving materials and
 - (2) on-site use and storage of agricultural chemicals in a mobile container temporarily on-site for purposes of applying the agricultural chemicals.

[NOTE: THIS REGULATION DOES NOT RESTRICT THE USE OF AGRICULTURAL CHEMICALS APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.]

(f) Unless regulated by the Ohio Fire Marshall aboveground storage tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use provided they are protected by secondary containment in accordance with Section 929.16 to prevent releases to the City's well fields.

(g) Nothing in this Section should be construed to apply the provisions of this Section to regulated substances contained in a vehicle and in use for the proper functioning of such vehicle, including by way of example and not by way of limitation, fuels, lubricants, antifreeze and the contents of batteries. This exemption does not apply to cargo being transported or stored in such vehicle.

(Ord. 99-52. Passed 2-16-99.)

929.05 SECONDARY AREA REGULATIONS.

(a) Prohibited Activities. The operation of sanitary landfills, landfills comprised of demolition debris, salvage yards and junkyards are prohibited within the Secondary Area; unless such facility has been granted a license by the State of Ohio to operate or unless a variance has been granted pursuant to Section 929.17.

(b) Use, storage, handling and/or production of regulated substances within the Secondary Area are limited as follows; unless a variance has been granted pursuant to Section 929.17:

- (1) The aggregate of regulated substances, other than agriculture chemicals, in use, storage, handling and/or production may not exceed fifty-five (55) gallons or four hundred forty (440) pounds at any one time.
- (2) The use, storage, and handling of agricultural chemicals (labeled for use and sale by licensed personnel) shall be conducted by using best management practices.

(c) An exclusion from the provisions of Subsection 929.05(b) is applicable to 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 further, that the aggregate inventory of such cleaning agents shall not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall this exclusion apply to hydrocarbon or halogenated hydrocarbon solvents.

- (d) An exclusion from the provisions of Subsection 929.05(b) is applicable to:
- (1) on-site use of building materials and paving materials in a mobile container temporarily on-site for purposes of installing or applying the building materials or paving materials and
 - (2) on-site use and storage of agricultural chemicals in a mobile container temporarily on-site for purposes of applying the agricultural chemicals.

[NOTE: THIS REGULATION DOES NOT RESTRICT THE USE OF AGRICULTURAL CHEMICALS APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.]

(e) Notwithstanding other provisions of Subsection 929.05(b), underground storage tanks, which exist on the effective date of this Chapter, which are located within the Secondary Area, which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use. Replacement of underground storage tanks is prohibited within the Secondary Area with the exception of underground storage tanks regulated by the Ohio Fire Marshall, Bureau of Underground Storage Tank Regulation (BUSTR) and with the exception of heating fuel tanks in residential use having a capacity equal to or less than five hundred fifty (550) gallons; provided that these exceptions shall apply only to tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks.

(f) Unless regulated by the Ohio Fire Marshall aboveground storage tanks shall be protected by secondary containment in accordance with Section 929.16 to prevent releases to the City's well fields. Notwithstanding other provisions of this Section 929.05, any underground storage tank may be replaced with an aboveground storage tank which complies with the provisions of this Chapter.

(g) Nothing in this Section should be construed to apply the provisions of this Section to regulated substances contained in a vehicle and in use for the proper functioning of such vehicle, including by way of example and not by way of limitation, fuels, lubricants, antifreeze and the contents of batteries. This exemption does not apply to cargo being transported or stored in such vehicle.

(Ord. 99-52. Passed 2-16-99.)

929.06 ADDITIONAL HAZARDOUS ACTIVITIES PROHIBITED.

(a) Handling of Regulated Substances. No person shall, on public or private property within the Primary or Secondary Areas, place, deposit, store, process, use, produce, dispose of, transport, or release; or permit to be placed, deposited, stored, processed, used, produced, disposed of, transported, or released any regulated substance in violation of any applicable law, statute, ordinance, rule or regulation.

(b) 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 a protected public water supply,

or which results in the violation of the provisions of this Chapter.

(c) Injection Wells. No person shall construct use, or operate an injection well within the Primary or Secondary Areas; unless such well has been licensed by the State of Ohio.

(Ord. 99-52. Passed 2-16-99.)

929.07 REPORTING REQUIREMENTS.

(a) Regulated Substance Activity Inventory:

(1) Applicability:

- (A) Each owner or occupant of any land in the Primary or Secondary Areas shall file a Regulated Substance Activity Inventory Report with the Health Commissioner. Said Report shall be filed on or before December 31 of each odd numbered year and shall be updated between reporting dates to report added/new regulated substances and increased amounts of regulated substances on the subject land.
- (B) Each new owner or occupant of any land in the Primary or Secondary Areas shall file a Regulated Substance Activity Inventory Report within one hundred eighty days after taking possession of such land and thereafter shall file Regulated Substance Activity Inventory Reports in compliance with Subsection 929.07(a)(1)(A). For purposes of this paragraph, "new" shall be defined as subsequent to the effective date of this Chapter.
- (C) Each person who owns, operates, or occupies more than one location, within the Primary or Secondary Areas shall file the Regulated Substance Activity Inventory Reports required under this Section for each location.
- (D) Each Certified Applicator applying agricultural chemicals within the Primary or Secondary Areas shall provide a copy of his/her applicator's current license issued by the Ohio Department of Agriculture to the Health Commissioner prior to applying any agricultural chemicals in either the Primary or Secondary Areas.
- (E) Regulated Substance Inventory Activity Reports shall disclose the following data:
 - (i) The identity of the reporting person and such information as the Health Commissioner may request to enable him/her to communicate with the reporting person.
 - (ii) A description of the area(s) where regulated substances will be stored and/or applied on the relevant site(s).
 - (iii) Such information as the Health Commissioner may require to identify the type and amounts of regulated substances stored and/or applied on the relevant site(s); including a copy of the MSDS sheet for each regulated substance stored on the relevant site(s) during the reporting period,
 - (iv) Total annual on-site storage of regulated substances for the relevant site(s).

(2) Exclusions from Activity Inventory Reporting:

- (A) Any exclusion set forth in this Subparagraph 929.07(a)(2) 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 release shall be subject to the

- provisions of Subsection 929.07(b). Any exclusions granted herein shall not remove or limit the liability and responsibility of any person.
- (B) An exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for incidental uses of regulated substances provided the uses are limited as follows:
 - (i) The aggregate of regulated substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any one time and
 - (ii) The total use of regulated substances may not exceed fifty-five (55) gallons or four hundred forty (440) pounds during any period of twelve (12) consecutive months.
 - (C) An exclusion from Regulated Substance Inventory Activity 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 ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall regulated substances to which this exclusion applies include hydrocarbon or halogenated hydrocarbon solvents.
 - (D) An exclusion from Regulated Substance Inventory Activity reporting is hereby authorized for the transportation of regulated substances through the Primary or Secondary Areas; provided that the transportation vehicle is in compliance with applicable local, State, and Federal laws and regulations and provided that the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed twenty-four (24) hours.
 - (E) An exclusion from Regulated Substance Inventory Activity 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 regulated substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly-owned wastewater treatment works.
 - (F) An exclusion from Regulated Substance Inventory Activity Reporting is hereby granted to on-site storage within the Secondary Area of a maximum one-year supply of agriculture chemicals to be used for routine on-site agriculture operations.
 - (G) An exclusion from Regulated Substance Inventory Activity Reporting is hereby granted to on-site storage of heating fuels for residential use stored in a tank having a capacity equal to or less than five hundred fifty (550) gallons.
- (b) Release of Regulated Substances:
- (1) Any person with direct knowledge of a release of a regulated substance within the Primary or Secondary Areas shall, if such release escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice:
 - (A) to the City by dialing "911" and advising of the release and

- (B) to the Services Director or to the operator on duty at the affected or potentially 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 or otherwise affect a person's obligations to comply with all other applicable local, State, and Federal laws and regulations.
(Ord. 00-456. Passed 12-19-00.)
- (2) The application of agricultural chemicals used in routine agricultural operations and applied using best management practices, shall not be considered a release subject to the reporting provisions of this Chapter.
- (3) Any person who releases said substance(s) shall be liable for any expense, loss or damages incurred by the owner of a protected public water supply and/or by the operator of a protected public water supply for damages resulting from such an incident, in addition to the amount of any fines imposed on account thereof under City, State 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 reoccurrence of such releases as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(c) 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 Chapter.

(d) Retention of Records. Any reports or records compiled or submitted pursuant to this Chapter shall be maintained by the owner of such reports or records for a minimum of five (5) years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.
(Ord. 99-52. Passed 2-16-99.)

929.08 NUISANCE DETERMINATION; PROHIBITION.

(a) When a reasonable basis to believe that a public nuisance exists in the Primary or Secondary Areas, the Health Commissioner shall inspect or cause the inspection of the premises on which such public nuisance is believed to exist.

(b) No owner or occupant of a premises in the Primary or Secondary Areas shall permit the existence of a public nuisance to continue on such premises.

(c) No person shall release, or permit to be released, treated or untreated sewage, the overflow drainage or contents of a sewage tank, or other putrescible, impure, or offensive wastes into an abandoned water supply, well, spring, or cistern or into a natural or artificial well, sink hole, crevice, or other opening extending into limestone, sandstone, shale, or other rock formation, or normal ground water table located in the Primary or Secondary Areas.

(d) No person shall release or cause to be released, treated or untreated sewage, the drainage or contents of a sewage tank, or other putrescible or offensive wastes onto the surface of the ground, into any street, road, alley, open excavation, underground drain, land

drain ditch, adjoining property, water course, or body of water located in the Primary or Secondary Areas.

(e) No person shall release any liquid, solid or gas into a sewage disposal system, including, but not limited to, septic tanks, aerobic type treatment systems, filters, leaching tile fields, mound systems, constructed wetlands, rock plant filters, drywells, building sewers, and privies or parts thereof located in the Primary or Secondary Areas; unless such sewage disposal system has been inspected by the Health Commissioner within the preceding twelve months and has been determined by the Health Commissioner to be a properly functioning sewage disposal system.

(Ord. 99-52. Passed 2-16-99.)

929.09 NOTICE AND ABATEMENT.

(a) If, upon inspection, it is determined that a public nuisance exists, then the Health Commissioner shall send or deliver a written notice to abate such public nuisance to each owner or occupant, or both, who caused or permitted the public nuisance to exist. Such notice shall identify the public nuisance and require the owner or occupant, or both, to abate the public nuisance within seven (7) days of such notice. Failure to abate the public nuisance within seven (7) days of such notice, as provided herein, may cause the City to abate the public nuisance at the expense of the owner or occupant, or both, who caused or permitted such public nuisance to exist.

(b) The Health Commissioner shall prepare or cause the preparation of a written report, including photographs, of every public nuisance for which a notice to abate is issued. All such reports shall remain on file with the Health Commissioner until the public nuisance is abated.

(Ord. 99-52. Passed 2-16-99.)

929.10 EMERGENCY ABATEMENT.

In the event the Health Commissioner or Services Director determines that the City wellheads or well fields will be threatened by the continuance of a public nuisance and determines that the designated public nuisance must be removed immediately to prevent imminent potential injury to the City's wellheads or well fields, the Health Commissioner and Services Director shall report such facts to the City Manager, and the City Manager shall cause whatever immediate action is necessary to abate such public nuisance at the expense of the property owner for all accrued costs. When an emergency public nuisance has been determined by the aforesaid officers, the abatement shall be carried out without regard for the requirements of Sections 929.08, 929.09, and 929.11 through 929.14, except that the City Manager shall, to the extent reasonably permitted by the exigency of the circumstances, give the owners of the subject premises, written or personal notice of his intended action and an opportunity for hearing thereon.

(Ord. 00-456. Passed 12-19-00.)

929.11 ABATEMENT OF NUISANCE BY THE HEALTH COMMISSIONER.

(a) Should such public nuisance not be abated at the expiration time stated in such notice issued by the Health Commissioner or such additional time as the Health Commissioner may grant, the Health Commissioner shall be authorized, at any time thereafter to enter upon such premises and the owner and occupant shall permit him entry to abate the public nuisance by taking such action as may be required.

(b) In abating such nuisance the Health Commissioner may call upon any department of the City for whatever assistance may be necessary, or may, by private contract, obtain the abatement thereof.

(c) In abating a nuisance, whether under the emergency procedure of Section 929.10(a) or under the regular procedure set forth in this Chapter, the cost of the abatement action may be recovered from the owner in the following procedure:

- (1) The owner or owners may be billed directly for the cost of the abatement. If the owner or owners are billed, the bill for the cost of the abatement shall be paid within sixty (60) days after receipt of the bill.
- (2) If costs are not so recovered, then the City may cause the cost of the abatement to be levied as an assessment and recovered in accordance with law.
- (3) If such an abatement of a nuisance is at no cost to the City, or if the City is reimbursed for its costs, the property owner shall be relieved of any assessment.

(Ord. 99-52. Passed 2-16-99.)

929.12 NOTICES.

Whenever the Health Commissioner determines that there has been a violation of any provision of this Chapter, except where a violation citation tag has been issued pursuant to Section 929.13, he, or a law enforcement officer having jurisdiction, may give notice of such violation to the person responsible therefor and order compliance with this Chapter as hereinafter provided. Such notice and order shall:

- (a) Be put in writing on an appropriate form;
 - (b) Include a list of violations, refer to the section or sections of this Chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this Chapter;
 - (c) Specify a reasonable time for performance;
 - (d) Advise the owner, operator or occupant of the procedure for appeal, except emergency orders issued pursuant to Section 929.10;
 - (e) Be served on the owner or occupant in person. However, this notice and order shall be deemed to be properly served upon the owner or occupant if a copy thereof is sent by registered or certified mail to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the property affected. If a registered or certified mail envelope is returned with an endorsement showing that service was refused, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. If the registered or certified mail envelope is returned with an endorsement showing that service was unclaimed, the notice may be served by ordinary mail to his last known mailing address, residence or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing; provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (1) The notice and order may, in the alternative, be served by leaving it at his last known residence or place of business in the presence of a family member or other responsible person of suitable age and discretion who shall be informed of the general nature of the contents thereof.
 - (2) If service is not accomplished by any of the above means, then a

notification of the existence of the notice and order may be published at least once in a local newspaper of general circulation.
(Ord. 99-52. Passed 2-16-99.)

929.13 VIOLATION CITATION TAGS.

The Health Commissioner is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of this Chapter.

- (a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the section of this Chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer oaths.
- (b) The citation tag shall be served on such person in accordance with the provisions of Section 929.12.
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of the Municipal Court of Clark County, Ohio, and on signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at such Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.
- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
- (f) The citation tag as herein provided, shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided by Section 929.12 in the event such violation is continued or repeated.
(Ord. 99-52. Passed 2-16-99.)

929.14 APPEAL TO CITY MANAGER.

(a) Except as otherwise provided in this Chapter, any owner of a property shall have the right to appeal from any determination of the Health Commissioner or of the Services Director, made in administering this Chapter, to the City Manager and to appear before the City Manager at a time and place to be determined by the City Manager.
(Ord. 00-456. Passed 12-19-00.)

(b) Such notice of appeal shall be filed with the City Manager in writing within three (3) days after receipt of any notice given under the provisions of this Chapter.
(Ord. 99-52. Passed 2-16-99.)

929.15 BACKFLOW PREVENTION.

(a) No person shall install, use, operate, or maintain any hydrant, faucet, or any kind of outlet for any liquid connected to a well located within the Primary or Secondary Areas; unless a reduced pressure principle backflow prevention device is operating properly between such hydrant, faucet or any outlet for any liquid connected to a well, and the well.

(b) An approved reduced pressure principle backflow prevention device of the type

designated shall be installed to protect the wells located on the premises of facilities located in the Primary and Secondary Areas; unless the Services Director determines that no real or potential health, pollutional or other hazard to the City's well fields exists.

(Ord. 00-456. Passed 12-19-00.)

(c) Any backflow prevention device installed pursuant to this Chapter shall be of a model or construction approved by the Services Director and the Ohio E.P.A. and shall be tested and be found to function properly and shall be certified by an inspector certified pursuant to Ohio R.C. 3703.04 and 3703.05 and Ohio Administrative Code Chapter 3701-37 before the device is put in use.

(Ord. 00-456. Passed 12-19-00.)

(d) Every backflow prevention device required under this Chapter shall be installed at a location and in a manner approved by the Services Director and shall be installed by and at the expense of the property owner.

(Ord. 00-456. Passed 12-19-00.)

(e) It shall be the duty of the property owner of any premises on which backflow prevention devices have been installed to have thorough inspections and operational tests made of the devices at such intervals and in such manner as may be required by the Services Director and by the Ohio E.P.A., but in no event shall such tests be made at greater than twelve month intervals. These inspections and tests shall be at the expense of the property owner and shall be performed by an inspector certified pursuant to Ohio R.C. 3703.04 and 3703.05 and Ohio Administrative Code Chapter 3701-37.

(Ord. 00-456. Passed 12-19-00.)

(f) Backflow prevention devices shall be repaired, overhauled or replaced at the expense of the property owner within fourteen days after they are found to be defective. Records of such inspections, tests, repairs and overhaul shall be kept by the property owner and made available to the Services Director and the Health Commissioner.

(Ord. 00-456. Passed 12-19-00.)

(g) Backflow prevention devices shall be tested during normal business hours. Manifold or dual settings of the devices should be considered for premises requiring uninterrupted water service. Backflow prevention devices set in manifold shall meet the minimum flow requirements of a single device of the proper size.

(h) Existing backflow prevention devices approved by the Services Director or the Ohio E.P.A. prior to the effective date of this regulation and which are properly maintained shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of subsections (c) and (d) hereof, if the Services Director and the Ohio E.P.A. are assured that the devices will satisfactorily protect the City's well field.

(Ord. 00-456. Passed 12-19-00.)

(i) The Health Commissioner shall maintain a current record of all backflow prevention devices which are a part of any water system connected to a well in the Primary or Secondary Areas.

(j) Persons performing inspections as required in this section shall, within fifteen days of performing such inspection, file with the Health Commissioner a test report. The test

report shall include the following data:

- (1) Type of backflow prevention device.
- (2) Size of backflow prevention device.
- (3) Location of backflow prevention device.
- (4) Model designation of backflow prevention device. (5) Date backflow prevention device was installed.
- (6) Test results before backflow prevention device was repaired.
- (7) Description of repairs made.
- (8) Description of materials used in making repairs.
- (9) Results of a final test of the backflow prevention device after the repair or installation.
- (10) Inspector's signature.
- (11) Date of the inspection.
- (12) Certification by the owner of the premises on which the backflow prevention device is located certifying that the backflow prevention device has been in constant use at the location of the backflow prevention device during the entire proscribed interval between test periods and that during that period the backflow prevention device was not by-passed, made inoperative or removed without proper authorization.
- (13) Such other information as the Health Commissioner deems necessary.

The Health Commissioner may impose a reasonable filing fee for reports filed to recover administrative costs associated with receiving and processing such reports.

(k) The definitions of terms contained in Section 913.03 of the Codified Ordinances shall be applicable to this Section.
(Ord. 99-52. Passed 2-16-99.)

929.16 SECONDARY CONTAINMENT AND RELEASE MITIGATION.

(a) Secondary containment protection must be:

- (1) Designed, installed, and operated to prevent any migration of regulated substances or accumulated liquid out of a tank, container or other thing or area intended to confine a regulated substance and into soil, ground water, or surface water at any time during the use of the tank, container or other thing or area intended to confine a regulated substance; and
- (2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(b) To meet the requirements of paragraph (a) of this Section, secondary containment systems must be, at a minimum:

- (1) Constructed of or lined with material that are compatible with the regulated substance to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the regulated substance to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);
- (2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;
- (3) Provided with a leak-detection system that is designed and operated so

that it will detect the failure of either the primary or secondary containment structure or the presence of any release of regulated substance or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the Service Director that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(Ord. 00-456. Passed 12-19-00.)

- (4) Sloped or otherwise designed or operated to drain and remove liquids resulting from releases or precipitation. Released regulated substances and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the Services Director that removal of the released regulated substances or accumulated precipitation cannot be accomplished within twenty-four hours.

(Ord. 00-456. Passed 12-19-00.)

(c) Secondary containment for tanks must include one or more of the following devices:

- (1) A liner (external to the tank);
- (2) A vault;
- (3) A double-walled tank; or
- (4) An equivalent device as determined by the Services Director.

(Ord. 00-456. Passed 12-19-00.)

(d) In addition to the requirements of paragraphs (a), (b), and (c) of this Section, secondary containment systems must satisfy the following requirements.

- (1) External liner systems must be:
 - (A) Designed or operated to contain one hundred per cent of the capacity of the largest tank within its boundary;
 - (B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;
 - (C) Free of cracks or gaps; and
 - (D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the regulated substance if the regulated substance is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the regulated substance).
- (2) Vault systems must be:
 - (A) Designed or operated to contain one hundred per cent of the capacity of the largest tank within its boundary;
 - (B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;
 - (C) Constructed with chemical-resistant water stops in place at all joints (if any);

- (D) Provided with an impermeable interior coating or lining that is compatible with the stored regulated substance and that will prevent migration of regulated substances into the concrete;
 - (E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the regulated substance being stored or treated is an ignitable regulated substance, or a reactive regulated substance and may form an ignitable or explosive vapor;
 - (F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.
- (3) Double-walled tanks must be:
- (A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;
 - (B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and
 - (C) Provided with a built-in, continuous leak-detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the Services Director, and the Services Director concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.
(Ord. 00-456. Passed 12-19-00.)
- (e) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of paragraphs (a) and (b) of this Section, except for:
- (1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;
 - (2) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;
 - (3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and
 - (4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure-actuated shut-off devices) that are visually inspected for leaks on a daily basis.
- (f) Release mitigation measures include the following:
- (1) Having on hand and readily available materials or devices to absorb liquid releases,
 - (2) Having on hand and readily available decontaminating and/or neutralizing agents to mitigate release of a regulated substance,
 - (3) Having an operable and effective mechanism to stop the addition of regulated substances to a leaking a tank, container or other thing or area intended to confine a regulated substance, and
 - (4) Such other measures or devices as the Services Director may determine are effective and practical to mitigate a release of a regulated substance and prevent the released regulated substance from endangering the City's well field.
(Ord. 00-456. Passed 12-19-00.)

929.17 VARIANCES

(a) Persons regulated under this Chapter may obtain a variance from the requirements of Sections 929.04, 929.05, 929.15 and/or 929.16 of this Chapter if the Service Director finds, as a result of a demonstration by such regulated person, that alternative design and operating practices and/or release mitigation measures which, together with location characteristics, will prevent the migration of any regulated substance into the ground water or surface water at least as effectively as measures and limitations prescribed in this Chapter or that, in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to the City's well field.

- (1) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the Service Director will consider:
 - (A) The nature and quantity of the regulated substances;
 - (B) The proposed alternate design and operation and/or release mitigation measures;
 - (C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and
 - (D) All other factors that would influence the quality and mobility of the regulated substances and the potential for them to migrate to ground water or surface water.
- (2) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the Service Director will consider:
 - (A) The potential adverse effects on ground water and surface water, taking into account:
 - (i) The physical and chemical characteristics of the regulated substance in the tank system, including its potential for migration;
 - (ii) The hydrogeological characteristics of the facility and surrounding land;
 - (iii) The persistence and permanence of the potential adverse effects; and
 - (B) The potential adverse effects of a release on ground-water quality, taking into account:
 - (i) The quantity and quality of ground water and the direction of ground-water flow;
 - (ii) The proximity and withdrawal rates of ground-water users;
 - (iii) The current and future uses of ground water in the area; and
 - (iv) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality; and
 - (C) The potential adverse effects of a release on surface-water quality, taking into account:
 - (i) The quantity and quality of ground water and the direction of ground-water flow;
 - (ii) The patterns of rainfall in the region;
 - (iii) The proximity of the tank, container or other thing or area intended to confine a regulated substance to surface waters;
 - (iv) The current and future uses of surface waters in the area and

- any water quality standards established for those surface waters; and
- (v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality; and
- (3) The owner or operator of a tank, container or other thing or area intended to confine a regulated substance, for which a variance from secondary containment had been granted in accordance with the requirements of this Section, at which a release of a regulated substance has occurred from the primary tank, container or other thing or area intended to confine a regulated substance, must:
- (A) Cease use and prevent the flow or addition of regulated substances into the tank, container or other thing or area intended to confine a regulated substance. The owner or operator must immediately stop the flow of regulated substances into the tank, container or other thing or area intended to confine a regulated substance or secondary containment system and inspect the system to determine the cause of the release.
 - (B) Remove all regulated substances from the tank, container or other thing or area intended to confine a regulated substance or secondary containment system.
 - (i) If the release was from the tank, container or other thing or area intended to confine a regulated substance, the owner/operator must, within twenty-four hours after detection of the leak, or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the regulated substance as is necessary to prevent further release of regulated substances to the environment and to allow inspection and repair of the tank, container or other thing or area intended to confine a regulated substance to be performed.
 - (ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.
 - (C) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:
 - (i) Prevent further migration of the leak or spill to soils or surface water; and
 - (ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.
 - (D) Provision of secondary containment, repair, or closure.
 - (i) Unless the owner/operator satisfies the requirements of paragraphs (D)(ii) to (D)(iv) of this Subsection, the tank, container or other thing or area intended to confine a regulated substance must be closed.
 - (ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released regulated substance is removed and repairs, if necessary, are made.

- (iii) If the cause of the release was a leak from the primary tank, container or other thing or area intended to confine a regulated substance into the secondary containment system, the system must be repaired prior to returning the tank, container or other thing or area intended to confine a regulated substance to service.
 - (iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 929.16 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank, container or other thing or area intended to confine a regulated substance that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of paragraph (v) of this Subsection are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank, container or other thing or area intended to confine a regulated substance), the entire component must be provided with secondary containment in accordance with Section 929.16 prior to being returned to use.
 - (v) Certification of major repairs. If the owner/operator has repaired a tank, container or other thing or area intended to confine a regulated substance in accordance with this paragraph (D), and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank, container or other thing or area intended to confine a regulated substance must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered professional engineer in accordance with paragraph (D) of rule 3745-50-42 of the Ohio Administrative Code that the repaired system is capable of handling regulated substances without release for the intended life of the system. This certification must be submitted to the Service Director within seven days after returning the tank, container or other thing or area intended to confine a regulated substance to use.
- (E) Prevent the migration of regulated substances to ground water or surface water, if possible, and decontaminate or remove contaminated soil.

(b) To request a variance under this Section the regulated person shall make application to the Service Director in writing by the regulated person for a variance under this Section explaining why a variance is needed and providing the Service Director with sufficient information to conclude that a variance may be granted pursuant to the requirements of this Section. If a variance is granted under this Section, the Service Director will require the

recipient of the variance to construct and operate any tank system for which a variance is granted in the manner that was determined by the Service Director to meet the requirements for the variance.

(c) The Service Director shall issue a written determination granting or denying the variance requested by a regulated person under this Section.

(d) Except as otherwise provided in this Chapter, an affected regulated person shall have the right to appeal from any determination of the Service Director, made in administering this Section, to the City Manager and to appear before the City Manager at a time and place to be determined by the City Manager.

(Ord. 00-456. Passed 12-19-00.)

(e) Such notice of appeal shall be filed with the City Manager in writing within three (3) days after receipt of the written determination issued pursuant to Subsection (c) of this Section.

(Ord. 99-52. Passed 2-16-99.)

929.99 PENALTIES.

(a) Any owner or occupant of property who fails to abate the existence of a public nuisance as required by Section 929.08 et seq. is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of any provision of this Chapter, a violation of any such provision is a misdemeanor of the fourth degree.

(b) Any person who violates Subsections 929.06 (b) or (c) is guilty of a misdemeanor of the first degree.

(c) In addition to any other penalties set forth in this Chapter, all civil remedies which shall be available to the City, including injunction.

(Ord. 99-52. Passed 2-16-99.)