

ARTICLE 2 OVERLAY DISTRICTS

CHAPTER 6

SEC 2.601 GROUND WATER PROTECTION OVERLAY (GP):

2.601.1 Purpose: The purpose of these regulations is to safeguard the public health, safety, and general welfare in the Warren County Zoning jurisdiction and to provide for the protection and availability of the existing and future potable groundwater supply in Warren County. Furthermore, it is intended that the protected public water supply, wells within designated sole source aquifer boundaries, and associated time-of-travel boundaries be protected from contamination, both by preventing increased risk and by reducing existing risk to the public water supply. These regulations set forth requirements, standards and criteria for the control of toxic or otherwise hazardous contaminants within the sole source aquifer, primarily through the control of Regulated Substances.

2.601.2 Applicability and Separability of These Regulations: The regulations set forth in this Section are the zoning regulations for the GP Groundwater Protection Overlay Area, which consists of Area 1 for Aquifer Protection and Area 2 for Wellhead Protection.

- (A) It shall be the responsibility of any person owning real property and/or owning or operating a business within the jurisdiction of this Zoning Code to make a determination of the applicability of these regulations in pertinence to their property and/or business. Failure to do so shall not excuse any violations of these regulations.
- (B) Nothing contained in these regulations shall be construed as to interfere with any existing or future unlawful 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 these regulations.
- (C) These regulations shall apply to the underlying zoning district and in addition to other overlays. If these regulations impose a greater restriction than the underlying zoning district or other overlay regulations, these shall control.

2.601.3 Definitions: Definitions of some of the terms used in this Section are contained in Section 4.103 (Definitions) of this Zoning Code:

SEC 2.602 ESTABLISHMENT OF BOUNDARIES:

2.602.1 Establishment of GP Overlay Area 1 Boundary for Aquifer Protection: The GP Overlay Area 1 for aquifer protection is identified as the area within the Sole Source Aquifer of the Great Miami and Little Miami Buried Valley Aquifer System, defined as Buried Valley Hydrogeological Setting 7D, of the Ground Water Resources Map of Warren County, publication dated 1986. The boundary of GP Overlay Area 1 encompasses parcels of land that are all, or partly within, the Buried Valley Hydrogeological Setting.

2.602.2 Establishment of GP Overlay Area 2 Boundary for Wellhead Protection: The boundary of GP Overlay Area 2 for wellhead protection shall be established in accordance with the following:

- (A) The owner of any protected public water supply well or wellfield may through use of a qualified acceptable professional engineer or other likewise accredited consultant establish a series of Time-of-Travel boundaries (the time, typically stated at one [1] to five [5] years, it takes groundwater within such boundary area to travel through the ground to reach the wellhead).
- (B) Time-of-Travel boundaries are delineated for one (1) and five (5) year intervals surrounding the wellhead(s). The boundaries delineated assume maximum pumping capacity from each well. One (1) of the following methods shall be utilized in producing the Time-of-Travel boundaries: semi-analytical, analytical, or numerical flow/solute transport models, as defined by the Ohio Environmental Protection Agency. If a portion of a property is located within GP Overlay Area 2, the entire property shall be governed as applicable by these regulations.
- (C) Approval of a Time-of-Travel boundary as a GP Overlay Area 2 for wellhead protection shall be administered by the zoning amendment process provided in Section 1.304 (Amendments) of this Zoning Code. The owner or representative of the protected public water supply shall be acknowledged as the applicant.
- (D) Upon the Board of County Commissioners' approval, the five (5) year Time-of-Travel boundary shall be the GP Overlay Area 2 effective thirty (30) days after zoning map amendment approval to that regard.
- (E) A requirement of three hundred (300) foot set-back from public or community wellheads enforced by EPA standards. There shall be no land disturbing activities such as construction, soil disturbance, or fertilization of crops within EPA mandated three hundred (300) foot set-back.

SEC 2.603 BOUNDARY DISPUTE AND AMENDMENT:

2.603.1 Amendment of GP Overlay Area 1 Boundary for Aquifer Protection:

- (A) **Dispute of GP Area 1 Boundary:** When a property owner determines there is sufficient evidence to doubt the location of the Buried Valley Hydrogeological Setting 7D with relation to the boundaries of their tract(s) of land as a site, the site owner may submit an assessment of hydrogeological conditions relative to their site to the Warren County Zoning Inspector.
- (B) **Hydrogeological Site Assessment:** The hydrogeological site assessment shall be prepared by a recognized acceptable technically qualified consultant and include the following:
 - (1) Literature search for information from previous hydrogeologic investigations on and surrounding the site;
 - (2) Hydrogeologic investigations to characterize groundwater conditions at the site if required by the Zoning Inspector; and,
 - (3) Description of site hydrogeology including soils, groundwater/surface water

interactions, aquifer type (i.e. sand and gravel, bedrock), aquifer configuration, potential groundwater storage, hydraulic parameters, susceptibility to contamination, boundary conditions, groundwater flow rate and patterns, and an assessment of existing groundwater quality.

- (4) An assessment of existing groundwater production patterns and an evaluation of the site with reference to wellfield areas of contribution, drinking water protection, and recharge.
- (C) **Assessment Review and Determination:** Upon submittal of the hydrogeological site assessment to the Zoning Inspector, it shall be provided thereby to the Regional Planning Commission, which shall review the assessment, with input from the Zoning Inspector as provided by involved technical advisors, and make a final determination as to whether the site property in question should be determined as containing the Buried Valley Hydrogeological Setting characteristics making these regulations applicable to the site and use.
- (D) **Effect of Approved GP Overlay Area 1 Boundary Amendment:** The hydrogeological site assessment approved by the Regional Planning Commission shall take precedence in determining the amendment, if any, of the GP Overlay Area 1 boundary for aquifer protection. If approved, the change in the boundary will be processed as an amendment of the Zoning Map in accordance with Section 1.304 procedures and requirements.

2.603.2 Amendment of GP Overlay Area 2 Boundary for Wellhead Protection:

- (A) **Dispute of GP Overlay Area 2 Boundary:** If a property owner determines there is sufficient evidence to doubt the location of the Time-of-Travel boundary around a wellhead in relation to their property, the property owner may request that the boundary be altered.
- (B) **Application to Alter GP Overlay Area 2 Boundary:** An application to amend the GP Overlay Area 2 boundary to exclude a property from inclusion in it shall include the following:
 - (1) Identification of the proximity of the five (5) year Time-of-Travel boundary in relation to the tract of land;
 - (2) Current land uses and existing zoning on the tract of land;
 - (3) Review of and Time-of-Travel boundary computations as outlined in Section 2.602.1 and 2 (Establishment of GP Overlay Area 2 Boundary for Wellhead Protection) and of adjacent hydrogeological site assessments as outlined in Section 2.603.1(B) (Hydrogeological Site Assessment); and
 - (4) Evidence of how the removal of a tract(s) of land shall not adversely affect the protection integrity of the GP Overlay Area 2.
- (C) **Assessment Review and Determination:** The application for amendment of the GP Overlay Area 2 boundary shall be submitted to the Zoning Inspector. The Regional Planning Commission shall review the assessment, with input from the Zoning Inspector as provided by involved technical advisors and the adjacent protected water

supply owner or representative, and make a determination as to whether the tract of land in question should be excluded from, or remain included in, the GP Overlay Area 2 for wellhead protection.

- (D) **Effect of Approved GP Overlay Area 2 Boundary Amendment:** Exclusion of property from the GP Overlay Area 2 does not necessarily also exclude the property from requirements of these regulations applicable to its location within GP Overlay Area 1 for aquifer protection. If approved, the change in the boundary will be processed as an amendment of the Zoning Map in accordance with Section 1.304 procedures and requirements.
- (E) **Time-of-Travel Boundaries For Wellheads Outside Zoning Jurisdiction:** In the event Time-of-Travel boundaries calculated around any public water supply wellhead(s) that are located outside the jurisdiction of this Zoning Code, utilizing Ohio Environmental Protection Agency Time-of-Travel Transport Models and resulting in creation of one (1) and five (5) year Time-of-Travel boundaries which extend into the jurisdiction of this Zoning Code, upon completion of the procedures for establishing such per Section 2.602.2 (Establishment of GP Overlay Area 2 for Wellhead Protection) as a map amendment of this Zoning Code, the regulations herein applicable for the GP Overlay Area 2 will be enforced.

SEC 2.604 PERMITTED AND PROHIBITED USES:

2.604.1 Permitted Uses: All land uses permitted or conditionally permitted in the underlying zoning district shall also be permitted and conditionally permitted, respectively, within the GP Overlay Area, in accordance with the following:

- (A) The permitted and conditional permitted uses must meet the use standards of this Zoning Code;
- (B) The permitted and conditionally permitted uses must meet the applicable requirements of the regulations in this Section; and,
- (C) A lagoon for managing animal waste shall be permitted only if approved by the Warren County Soil and Water Conservation District, and/or the Ohio Environmental Protection Agency, as applicable.

2.604.2 Prohibited Uses: Land uses prohibited in the underlying zoning district shall also be prohibited within the GP Overlay Area. Prohibited land uses also include, but shall not be limited to, the following:

- (A) Landfills comprised of construction/demolition debris, fly ash, foundry sand, or other non-approved matter, junkyards, dry wells, and newly sited sanitary landfills;
- (B) Septage spraying and sludge spreading, without prior approval from the Ohio Environmental Protection Agency and monitoring by the Warren County Combined Health District; and,
- (C) Any use deemed unacceptable as to actual or potential threat of contaminating groundwater.

SEC 2.605 REGULATED SUBSTANCES:

- (A) Regulated Substances are chemicals or mixtures of chemicals that are health hazards. Materials packaged for personal or household use as food or drink for man or other animals shall not be considered “Regulated Substances” for the purposes of these regulations. Regulated Substances include, but shall not be limited to, the following:
- (1) Chemicals which are regulated by the Safe Drinking Water Act (P.L. 95-523, as amended P.L. 96-502, 42 U.S.C. 300(f) et seq. (SDWA), Toxic Substance Control Act, as amended, 15 U.S.C. 2601 et seq. (TSCA), Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq. (RCRA), Occupational Safety and Health Act, 29 U.S.C. 651 et seq. (OSHA), Comprehensive Environmental Response Compensation and Liability Act (CERCLA), or other state and/or federal environmental laws and regulations, or 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, thehematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.
 - (2) Mixtures of chemicals which have been tested as a whole and determined 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 percent (1%) 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 (0.1) of one percent (1%) or greater of the composition on a weight per unit weight basis.
 - (4) Ingredients of mixtures prepared within GP Overlay Area 1 in cases where such ingredients are health hazards, but comprise less than one-tenth (0.1) of one percent (1%) of the mixture (on a weight per unit weight basis), if carcinogenic; or if less than one percent (1%) of the mixture (on a weight per unit weight basis), if non-carcinogenic.
 - (5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

2.605.1 **Review:** Determination of whether a material is a Regulated Substance can be made upon review of a Material Safety Data Sheet (MSDS). This should be available from the manufacturer, vendor, or distributor of the product. The most recent United States Environmental Protection Agency, Title III Lists of Lists, is a reference to potential Regulated Substances and is not a comprehensive listing.

2.605.2 **Determination and verification:** Regulated Substances shall be administered by the Zoning Inspector, with input as needed from a technically qualified consultant or authority to that regard.

SEC 2.606 **DEVELOPMENT WITH SENSITIVE GROUNDWATER AREAS:** For the purpose of this section, Sensitive Groundwater Areas are outlined on the Groundwater Protection Overlay Map, Section 2.601.

- 2.606.1 Development Standards:** A development project must include nonstructural and/or structural stormwater management measures that minimize the loss of groundwater recharge at the project site. Development projects shall comply with one of the following:
- (A) **Requirement 1:** For Residential Development, 80% of the pre-development infiltration volume should be maintained.
 - (B) **Requirement 2:** For Non-Residential Development, 70% of the pre-development infiltration volume should be maintained.
 - (C) In addition, steps should be taken to, minimize impervious surfaces; prevent mass grading; utilize conservation design techniques such as clustering, narrower street widths, reduced parking lot sizing, and pervious pavement; use best management practices, setbacks, and pretreatment to protect groundwater quality.
- 2.606.2 Density:** The density calculation for that portion of a development site within a Sensitive Groundwater Area shall be calculated at one unit per five (5) acres and the Impervious Surface Ratio shall not exceed 0.50.
- 2.606.3 Application Requirements:** In addition to the application requirements specified in Section 1.303 (Application for Site Plan Review) of this Zoning Code, the following additional information shall also be provided for use of a site located within the GP Overlay Area:
- 2.606.4 Additional Site Plan Contents:**
- (A) The location(s) where Regulated Substances will be handled and stored, and/or contained, in the event of a spill or leak.
 - (B) The location or type of security systems to be installed.
 - (C) Detailed plans of all accidental spill or discharge containment measures.
- 2.606.5 Description of Regulated Substances Operations:**
- (A) Description of operations, activities, and processes to be conducted at the site, emphasizing those involving Regulated Substances.
 - (B) A list of Regulated Substances and expected quantities.
- 2.606.6 Regulated Substances Management Plan:** Methods to achieve compliance with Section 2.607.2 (Use, Handling, and Storage of Regulated Substances).
- 2.606.7 Site Groundwater Monitoring Plan:** Location of both baseline and continuing monitoring wells, specifications for such wells, and schedules for reporting monitoring results as specified in Section 2.607.5 (Groundwater Monitoring Requirements).
- 2.606.8 Emergency Response Plan:** Procedures and responsibility, inclusive of required reporting provisions to appropriate officials, in the event of any accidental or otherwise unauthorized release of any Regulated Substance at the site. This may be provided at any time prior to the zoning permit being issued in allowance of the proposed use receiving site plan approval.

SEC 2.607 **DEVELOPMENT, PERFORMANCE STANDARDS FOR USE OPERATIONS IN GP AREAS 1 AND 2:** The below listed standards apply to developing and operating uses in GP Overlay Areas 1 and 2:

2.607.1 **Spills, Leaks, or Discharges:**

- (A) Any entity or person with direct knowledge of a spill, leak, or discharge of a Regulated Substance within the GP Overlay Area shall, if such spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the local fire district, local Emergency Planning Committee, and Ohio Environmental Protection Agency within thirty (30) minutes of knowledge of the discharge. Additionally, the entity or person shall provide the local fire district (at 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 any other local, state, and federal reporting obligation required by law.
- (B) Any entity or person which spills, leaks, or discharges said substance(s) shall be liable for any reasonable expense, loss, or damages incurred by the County and/or public water system operation in response to such an incident, in addition to the amount of any fines imposed thereof under Ohio and Federal law. Said entity or person responsible for such 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 spills, leaks, or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.
- (C) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc., used in routine agricultural operations, including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, the Ohio State University Extension, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the Ohio Department of Agriculture, shall not be considered a spill, leak, or discharge subject to the reporting provisions of this section.

2.607.2 **Use, Handling, and Storage of Regulated Substances:** The use, handling, and storage of all Regulated Substances shall be in accordance with the following standards:

- (A) All underground storage facilities used for Regulated Substances shall be designed and constructed with secondary containment systems that are capable of holding, at a minimum, one hundred ten percent (110%) of the primary container volume.
- (B) All underground storage facilities shall have a monitoring system approved by the Zoning Inspector and the Ohio Environmental Protection Agency.
- (C) Transfer and/or above ground storage facilities for Regulated Substances shall be equipped with impervious containment and dikes enclosing the entire transfer and/or storage area of the facility. The volume of the diked area shall be capable of holding, at a minimum, at least one hundred ten percent (110%) of the capacity of the largest tank contained therein. Dikes around above-ground transfer and/or storage facilities and the

entire area enclosed by the dikes, shall be made impervious to the types of substances expected to be stored in the tanks. Drainage or precipitation from within the dike area shall be controlled in a manner that will prevent any Regulated Substance from entering the ground, groundwater, or surface waters.

- (D) All transfer and/or storage facilities shall have shut-off valves for piping, other conduits, and containers used for Regulated Substances designed in accordance with accepted engineering standards as specified by the Zoning Inspector.
- (E) The material used in the construction or lining of storage tanks shall be compatible with the substance to be stored. Storage tanks shall be protected against corrosion and designed in a manner approved by the Zoning Inspector to prevent the release or threatened release of any stored Regulated Substance.
- (F) Incompatible materials shall be located in separated areas within all transfer and storage areas on a site.
- (G) The placement of any Regulated Substance in direct contact with the surface of the ground shall be prohibited except as otherwise provided for in Section 2.607.1 (Spills, Leaks, or Discharges). In lieu of placing Regulated Substances in direct contact with the surface of the ground, such substances should be underlain with dike containment pads or platforms constructed of impervious materials.
- (H) Any storage of drums, tanks, or other vessels susceptible to weather-related damage which contain, or have contained, Regulated Substances shall be protected against damage from heat, cold, rust, and other weather-related conditions.
- (I) All transfer and/or storage areas of a facility where Regulated Substances are used, stored, or handled shall be adequately secured from access by unauthorized persons.
- (J) The discharge or disposal of any Regulated Substance into any storm or sanitary sewer, except in accordance with a valid discharge permit, is prohibited.
- (K) Pipelines which contain Regulated Substances shall be built or modified to meet secondary containment and monitoring requirements outlined within these regulations.

2.607.3 Other Groundwater Protection Standards:

- (A) Stormwater retention basins shall be equipped with impermeable liners, when determined necessary by the Zoning Inspector or designee, to prevent excessive infiltration into underlying aquifers.
- (B) Residential developments not connected to a central sanitary sewer shall comply with Warren County Combined Health District regulations.
- (C) All residential wastewater disposal systems within the GP Overlay Area 1 shall be required to be inspected according to the Warren County Combined Health Regulations per its specifications. This requirement shall be implemented within one (1) year of the initial effective date of these regulations.
- (D) All wastewater disposal systems serving non-residential uses and residential uses of four (4) dwelling units or greater, within the GP Overlay Area 1 shall, contingent upon

agreement with the Ohio Environmental Protection Agency (OEPA), be required to be inspected annually by the Warren County Combined Health District per its specifications. This requirement shall be fully implemented within one (1) year of the effective date of the agreement with OEPA.

- (E) Abandonment of wells shall be in accordance with requirements of Ohio's Private Water System Rules, Ohio Administrative Code Section 3701-28.
- (F) Bulk storage facilities for road salt shall be equipped with containment dike pads or platforms and covers constructed of impervious materials.
- (G) Storage of agricultural chemicals shall be in standard approved packaging, and application of such chemicals to real property shall be in accordance with Best Management Practices, such as those recommended by the Ohio State University Extension or the Warren County Soil and Water Conservation District and applied by the United States EPA label directions.
- (H) Mineral extraction activities within the GP Overlay Area 1 shall be regulated according to all applicable Ohio Department of Natural Resources requirements and zoning requirements of the M E Mineral Extraction District and the GP Overlay Area 1. In cases of differing requirements, the more restrictive regulation shall apply, unless otherwise determined by law.
- (I) Livestock operations shall have animal waste management plans approved by the Warren County Soil and Water Conservation District in accordance with the requirements of the Ohio Administrative Code Section 1501:15-5.

2.607.4 Non-Operating Facilities: No person or entity shall abandon, close, or temporarily cease operating facilities involving Regulated Substances without complying with the following regulations:

- (A) Any non-residential use of property that becomes unoccupied or has discontinued operation for a period of sixty (60) days or more shall remove all Regulated Substances from the site within ninety (90) days from the date of discontinued use.
- (B) An underground storage facility which is temporarily taken out of service for a period of six (6) months to one (1) year, but which the operator intends to return to use, shall be subject to the requirements of the State Fire Code dealing with the abandonment of tanks.
- (C) Underground storage facilities abandoned for a period exceeding three hundred sixty-five (365) days must be removed in accordance with the requirements of the State Fire Code.

2.607.5 Groundwater Monitoring Requirements: The following monitoring provisions may apply to new operations, modification of any existing operations, and/or any change of occupancy of all non-residential uses requiring a building permit, zoning permit, and/or a site plan approval within the GP Overlay Area that store or handle Regulated Substances.

- (A) **Exemptions from Requirements:** Application of agricultural chemicals, etc., as

outlined in Section 2.607.1 (Spills, Leaks, or Discharges), and the existing storage facilities for such applications on land used for agricultural purposes as defined in this Zoning Code, shall be exempted from groundwater monitoring requirements. However, newly constructed storage facilities for such purposes, erected after the initial effective date (April 22, 1993) of these regulations, may require groundwater monitoring, if applicable, as required below per (2).

(B) **Consideration for Applicability:** The following criteria shall be utilized in determining the necessity of a monitoring system. If it is determined by the Zoning Inspector that groundwater monitoring is necessary, the below listed requirements per (3) and (4) shall apply:

- (1) The nature of the proposed operation.
- (2) The amount and potential risk of the Regulated Substances to be utilized.
- (3) The existence and location of current monitoring systems.
- (4) The characteristics of the aquifer in the vicinity of the site.
- (5) The proximity to a protected public water supply.

(C) **Baseline Monitoring:** Baseline groundwater monitoring shall be required at the proposed site of a new operation for a period of not less than three (3) months prior to the date of commencing the zoning permitted use. Wells for such monitoring shall be of sufficient number, design, and location as specified by the Warren County Combined Health District (WCCHD) to determine prevailing hydrogeologic conditions and baseline groundwater quality. Parameters for baseline monitoring shall be determined by the WCCHD and OEPA as applicable. The property owner shall provide data indicating the depth to normal ground water table and the direction of groundwater movement as certified by a hydrogeological firm. Baseline monitoring wells shall be sampled at least twice by the WCCHD with results forwarded to the Zoning Inspector.

(D) **Continuing Monitoring:** Following baseline monitoring, a program of continuing monitoring shall be required at the proposed site. Wells installed for baseline monitoring shall be used for the continuing monitoring program, along with supplemental monitoring wells installed as directed by the WCCHD based on review of the baseline monitoring results. Continuing monitoring wells shall be sampled at least quarterly as specified by the WCCHD. Parameters for continuing monitoring shall be determined by the WCCHD, with consultation by qualified water quality professionals as necessary.

- (1) Supplemental monitoring wells shall be installed at selected locations in the site, down-gradient of Regulated Substances sources, such as storage tanks, loading areas, etc.
- (2) Monitoring reports shall be submitted at least quarterly and provided to the Zoning Inspector.
- (3) When a monitoring report indicates the presence of Regulated Substances not present in baseline monitoring results, or increases in the level(s) of such substance(s), the Zoning Inspector shall, with assistance from the WCCHD,

report said findings to the OEPA and/or consult with owners/officials of the facility operation in question to determine the origin of the substance(s) and develop plans for addressing the situation.

- (E) **Other Monitoring Requirements:** Groundwater monitoring requirements of other Federal, State and local agencies in effect at the time of application of the provisions of the Warren County Rural Zoning Code shall also apply in the GP Overlay Areas 1 and 2, as appropriate. Where the requirements of such other regulations differ from those of this Zoning Code, the more restrictive regulations shall apply, unless otherwise restricted by law.

SEC 2.608 **DEVELOPMENT AND PERFORMANCE STANDARDS FOR USE OPERATIONS IN GP OVERLAY:** The below listed standards shall apply to developing and operating uses in GP Overlay Area 2, in addition to the requirements also specified applicable in preceding Section 2.607:

2.608.1 **Regulated Substances Maximum Quantities:** Use (storage, handling, and/or production) of Regulated Substances in conjunction with permitted uses in GP Overlay Area 2 shall be limited to:

- (A) At any given time, a permitted zoning use may not exceed the Reportable Quantity for each Regulated Substance used, stored, handled, and/or produced at a given site, as established by 40 Code of Federal Regulations 302, et. seq.
- (B) All unlisted Regulated Substances shall be limited to one hundred (100) pounds or twelve point five (12.5) gallons at any time.
- (C) The total use, storage, handling, and/or production of Regulated Substances may not exceed twelve (12) times the Reportable Quantity for each Regulated Substance as established by 40 C.F.R. 302, et. seq., or for unlisted Regulated Substances, one thousand two hundred (1,200) pounds or one hundred fifty (150) gallons, in any twelve (12) month period.

2.608.2 **Limited Exclusions:** Limited exclusions from above listed provisions in Section 2.608.1 are authorized for:

- (A) **Cleaning Agents:** Cleaning agents shall be packaged for personal or household use or be present in the same form and concentration as products packaged for use by the general public. In no case shall cleaning agents claimed under this exclusion include hydrocarbon or halogenated solvents.
- (B) **Construction Materials:** Regulated Substances associated with construction for which a zoning certificate has been issued, paving or the pouring of concrete shall be excluded from regulation while present on the construction site provided such Regulated Substances do not pose a real and present danger of contaminating surface and/or groundwater as determined by the Warren County Combined Health District.
- (C) **Office Supplies:** Office supplies that are used solely for the operation of on-site administrative offices provided such supplies are repackaged in a form ready

for use.

- (D) **Agricultural Chemicals:** A limited exclusion is authorized for on-site storage of a maximum one (1) year supply of agricultural chemicals to be used for routine on-site agricultural operations, provided such substances are stored in standard approved packaging, under specifications recommended by the manufacturer, and such chemicals are applied to real property under Best Management Practices as indicated by soil tests, the Ohio State University Extension, the Warren County Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency and the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to real property where such chemicals are brought in from other locations. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory, spill reporting, and underground/above ground storage tank protection requirements of GP Overlay Area 1 for aquifer protection and Area 2 for wellhead protection.

2.608.3 Underground Storage Facilities: Five (5) years from the effective date of zoning establishing a Time-of-Travel boundary, only storage of vehicle fuel and vehicle lubricants and fuel for building and/or process heating may occur in underground storage tank systems in GP Overlay Area 2. At that time, fuels for non-residential building and/or process heating and vehicle fuel and lubricants shall be secondarily contained and monitored in accordance with plans submitted to, and approved by, the Zoning Inspector and in conformance with rules and regulations of the Ohio Administrative Code Section 1301:7-9. Underground storage tanks then present containing fuel for residential building and/or process heating shall be exempt from zoning restriction, but future usage in new residential construction shall be highly discouraged, and removal per federal and state law may be required.

2.608.4 Existing Businesses/Non-conforming Maximum Quantities: Existing businesses located in GP Overlay Area 2 with legal nonconforming maximum quantities shall conform to the following requirements:

- (A) Upon compliance with Regulated Substances reporting requirements listed below in (E), owners or occupants of any land within GP Overlay Area 2, utilizing Regulated Substances at the effective date of any Time-of-Travel boundary, shall be "grandfathered" with maximum quantities restricted to existing levels determined by peak business cycles. "Grandfathered" maximum quantities shall run with the land and be administered as a legal non-conforming use in accordance with Section 1.308 (Non-conformities) of this Zoning Code.
- (B) Existing businesses having legal nonconforming maximum quantities of Regulated Substances within GP Overlay Area 2, as provided above in (D)(1), may make application to the Board of Zoning Appeals per Section 1.306 in request of conditional use to approve modifications in operation, changes in specific Regulated Substances, used or stored, and/or increase the maximum quantities of Regulated Substances maintained on site in response to changes in the market and/or need to increase production, provided that the following requirements are met:

- (1) All other methods to respond to changes in the market or increase production

without exceeding the maximum quantities of reported Regulated Substances have been exhausted; and,

- (2) The business can demonstrate that there shall be no greater hazard and/or threat of hazard to the aquifer and/or groundwater as a result of increasing the amount of Regulated Substances.
- (C) The Board of Zoning Appeals may approve increases to the maximum quantities of Regulated Substances only after review of the application by the Zoning Inspector, with input from technical experts, the Warren County Combined Health District and Regional Planning Commission.

2.608.5 Reporting Requirements of Regulated Substances:

- (A) Any owner or occupant of a site used primarily for non-residential uses other than agriculture in GP Overlay Area 2 shall file an initial Regulated Substance Inventory Report with the Zoning Inspector. Said report shall be filed within one hundred eighty (180) days of the initial effective date (April 22, 1993) of these regulations and/or the subsequent effective date of the GP Overlay Area 2 established by the Board of County Commissioners and at a maximum of twenty-four (24) month intervals thereafter.
- (B) Except as provided below per (3), any new owner or occupant of any land in GP Overlay Area 2 shall file a Regulated Substance Inventory Report prior to commencing a zoning permitted use and at twenty-four (24) month intervals following the date of continuing the use operation thereafter.

2.608.6 Exclusions beyond Initial Inventory Reporting:

- (A) Any exclusions set forth in this subsection shall apply provided that any spill, leak, discharge, or mishandling shall be subject to the regulations of Section 2.607.1 (Spills, Leaks, or Discharges). Any exclusions granted herein shall not remove or limit the liability involved.
- (B) An exclusion from Regulated Substance Inventory Reporting is hereby authorized for the transportation of Regulated Substances through the GP Overlay Area 2 provided that the transporting vehicle is in compliance with applicable Federal and Ohio laws and regulations and provided that the Regulated Substance is fueling the transporting vehicle or the transporting vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed seventy-two (72) hours.
- (C) A limited exclusion from Regulated Substances 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 (3)(b) above, in no case shall the tanker portion of a tractor-trailer truck be included in this exclusion.
- (D) Entities engaged in agricultural activities that are required to file any SARA Title III, Community Right to Know Reports, shall also file copies of those reports with the Zoning Inspector. Said entities shall also maintain records of

applications and purchases of agricultural chemicals per state and federal regulations. Such records shall be made available as specified in Section 2.609.3 (Inspections).

SEC 2.609 ENFORCEMENT:

2.609.1 Application: If any activity or use of a Regulated Substance is deemed by the Zoning Inspector to be in violation of these regulations and pose a real and present danger of contaminating surface and/or groundwater which would normally enter the public water supply, in accordance with Section 303.24 of the Ohio Revised Code, or other applicable State laws and (Violations, Penalties and Remedies) Section 1.309 of this Zoning Code, the Zoning Inspector is authorized to:

- (A) Cause cessation of said activity or use of the Regulated Substance;
- (B) Require the provisions of administrative controls and/or facilities sufficient to mitigate said danger; and/or,
- (C) Cause the provision of pollution control and/or abatement activities.

2.609.2 Consideration: When considering the exercise of any of the above authorities or actions, the Zoning Inspector shall utilize the services of a technically qualified person in making such determination and shall notify and consult with the owner or designated representative of the potentially affected and/or affected public water supply to 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 Zoning Inspector may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

2.609.3 Inspections: Subject to applicable provisions of law, the Zoning Inspector or so authorized designee bearing proper identification, shall be permitted to enter onto a 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 these regulations, to insure that use operation facilities and activities are in accordance with these regulations. Upon request of the person or entity that is the owner and/or operator of the site which is the subject of the inspection, and if permitted by the State Public Records law, information obtained as a result of the inspecting of the site shall be maintained as confidential. If the site owner or tenant operator of the site requiring inspection does not consent to the entry of the site by the Zoning Inspector or duly designated representative for the above stated purposes of the inspection, the Zoning Inspector may apply to the court of jurisdiction to issue an appropriate warrant ordering allowance of the Zoning Inspector or other appropriate authority to enter the property for said purposes of inspection.