

Article 6: Overlay Zoning Districts

6.01 SWPO SOURCE WATER PROTECTION OVERLAY DISTRICT²⁰

(A) Purpose

The purpose of this article is to safeguard the public health, safety, and welfare of persons and property in Ross Township and the surrounding areas by protecting designated groundwater supplies from degradation resulting from the improper storage, use, or discharge of regulated substances in and around existing and future wellfields, and their recharge areas.

(B) General Applicability

(1) Unless specified otherwise, all provisions of this resolution apply to any facility operator of any real property or business in Ross Township when storing or otherwise using regulated substances as defined in this resolution, or conducting any activity regulated under Section [6.01\(T\)](#) herein, and located within a Source Water Protection Area (SWPA) as defined in Section [6.01\(C\)](#) herein and as shown on the Ross Township Zoning Map. It is the responsibility of the facility operator to determine the applicability of this resolution to their property and/or business, and to comply with all requirements established in this rule as applicable to the facility. Failure to do so shall not excuse any violations of this resolution.

(2) Limited Exemptions

The following are exempt from the provisions set forth herein except for compliance with Sections [6.01\(H\)](#) through [6.01\(M\)](#) of this resolution:

- (a) Indoor storage/use of regulated substances in an area capable of fully containing a total release of the regulated substances within the facility or draining the release to a wastewater treatment system capable of and permitted to/agreeable to treating the released substances. Septic tank systems do not qualify as a wastewater treatment system under this exemption;
- (b) Sale/storage of regulated substances packaged as consumer products in original containers when the aggregate quantity on site meets or exceeds those thresholds established in Section [6.01\(X\)\(5\)](#) of this resolution;
- (c) Current hazardous waste storage areas at RCRA permitted facilities;
- (d) Radioactive materials regulated by the U.S. Nuclear Regulatory Commission or the State of Ohio;
- (e) Aboveground storage tanks in the five-year Time-of-Travel (TOT) used exclusively for the storage of residential quantities of Grade 1 or Grade 2 heating fuels and diesel fuel; and
- (f) Oil/water separator underground storage tanks.

(3) Full Exemptions

The following uses of regulated substances are exempt from the provisions set forth herein.

- (a) Laboratory activities;
- (b) Chemical storage tanks containing pressurized gases such as chlorine, propane, hydrogen, and nitrogen;
- (c) Household use of regulated substances packaged for consumer use in original pre-packaged containers;

²⁰ This language is carried forward from Article 22 of the Butler County Zoning Resolution with only edits to make it applicable to Ross Township.

- (d) Excavation or removal of earth materials; except when storing regulated substances that meet or exceed quantity thresholds established in Section [6.01\(X\)\(4\)](#), then facility must comply with this resolution;
- (e) Office and maintenance/janitorial use of regulated substances packaged as consumer products. This exemption does not apply to hydrocarbon or halogenated hydrocarbon solvents;
- (f) Oils and fluids within electrical utility transformers/switches except when stored in quantities meeting or exceeding thresholds established in Section [6.01\(X\)\(4\)](#) of this article;
- (g) Materials present as a solid inside of a manufactured item;
- (h) Transport of regulated substances in trucks, trailers, tankers, or rail cars to facilities through the Source Water Protection Area, provided the regulated substances are fueling the transporting vehicle, or the transporting vehicle is in continuous transit, making a delivery, or is stopped for a period of time not to exceed 24 hours;
- (i) Sale/storage of regulated substances packaged as consumer products in original containers when the aggregate quantity on site is less than those thresholds established in Section [6.01\(X\)\(5\)](#) of this resolution.

(C) Source Water Protection Areas Established

- (1) Certain areas of Butler County, including portions of Ross Township, are hereby delineated into the following districts for the protection of groundwater resources and shall be collectively referred to as the “Source Water Protection Area” (SWPA). The official map of the SWPA shall be kept on file with the Butler County Department of Development at 130 High Street, Hamilton, OH 45011. The boundaries of the Source Water Protection Overlay District (SWPO) are intended to follow those boundaries and are reflected on the Ross Township Zoning Map.²¹
 - (a) One-Year TOT Zone. The one-year TOT zone is that area around the well or wellfield from which groundwater will be drawn for use in a public water supply in a one year or less time period. The one-year TOT zone is hereby established in those areas of Butler County as illustrated on the zoning map.
 - (b) Five-Year TOT Zone. The five-year TOT zone is that area located outside the one-year TOT zone but within the boundaries of the area from which groundwater will be drawn in a five year or less time period. The five-year TOT zone is hereby established in those areas of Butler County as illustrated on the zoning map.
 - (c) Ten-Year TOT Zone. The ten-year TOT zone is that area located outside the one-year and five-year TOT zones but within the boundaries of the area from which groundwater will be drawn in a ten year or less time period. The ten-year TOT zone is hereby established in those areas of Butler County as illustrated on the zoning map.

²¹ This would leave Butler County in charge of the official boundaries.

(2) Redelineation of the SWPA

(a) Procedure for Proposals Respecting Changes/Redelineation of SWPA Designation

Any change in the boundary of a SWPA resulting from redelineation of a SWPA shall be effective after approval of the redelineation by means of a zoning map amendment as provided for in Section [3.05: Zoning Text or Map Amendment](#). Public notice of the change shall include the publication of notice pursuant to the ORC for zoning map changes as well as written notice provided via first class mail to those registered facility operators in the pre-existing SWPA whose location in a TOT zone has changed as a result of the redelineation, and any nonresidential property owners in the newly delineated portions of the updated SWPA. Such written notice shall comply with the written notice requirements of the ORC for zoning map changes and shall be mailed, via first class mail, no less than 30 days prior to the public hearing date and the notification shall be in the form of a letter stating the results of the redelineation and any subsequent change in the facility's regulatory status.

(b) Impact on SWPA Facilities

- (i) Where an existing facility required to comply with the provisions set forth herein is no longer located in a SWPA as a result of the redelineation, the facility is no longer subject to compliance with this article.
- (ii) Any facility previously located outside the boundary of the SWPA that is located inside the boundary of the SWPA as a result of the redelineation must be registered in accordance with Section [6.01\(H\)\(6\)](#) of this resolution and must comply with those provisions required of existing facilities for the TOT zone in which the facility is located as applicable and in accordance with the time frames specified for those applicable provisions.
- (iii) Any registered facility whose classification within a TOT zone is changed to a different TOT zone as a result of the redelineation must submit an amended facility registration to the Zoning Inspector in accordance with Section [6.01\(H\)\(7\)](#) of this resolution and must comply with those provisions required of existing facilities as applicable for the new TOT zone in which that facility is now located in accordance with the time frames specified for those applicable provisions.

(D) Prohibitions in the Source Water Protection Area

(1) TOT Zone Prohibitions

[Table 6-1](#) sets forth where certain activities or land uses are prohibited in the one-year, five-year, and ten-year TOTs as indicated by an "X."

| TABLE 6-1: PROHIBITIONS IN THE SOURCE WATER PROTECTION AREA BY TOT ZONE | | | |
|---|-----------------|------------------|-----------------|
| Activity or Land Use | Tot Zone | | |
| | One-Year | Five-Year | Ten-Year |
| Commercial junk yards; and salvage yards; | X | X | |
| Commercial sanitary/solid waste/construction and demolition debris landfills; | X | X | X |
| The disposal of shingles, asphalt, asbestos, and/or lead-based or lead containing materials in an unlicensed landfill; | X | X | X |
| The manufacturing, processing, or recycling of regulated substances as the principal activity where storage, handling, or use of a Regulated Substance exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | X | |

TABLE 6-1: PROHIBITIONS IN THE SOURCE WATER PROTECTION AREA BY TOT ZONE

| Activity or Land Use | Tot Zone | | |
|--|----------|-----------|----------|
| | One-Year | Five-Year | Ten-Year |
| Commercial establishments for gasoline and diesel fuel dispensing service stations, motor vehicle repair/service shops and/or body repair where storage, handling, or use of a regulated substance exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Trucking or bus terminals where storage, handling, or use of a Regulated Substance exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Confined animal feeding operations; | X | | |
| Primary metal product industries where storage, handling, or use of a Regulated Substance exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Metal plating, polishing, etching, engraving, anodizing, or similar processes where storage, handling, or use of a regulated substance exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Lawn, garden, pesticide, and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides, and other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored on site exceed 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars not meeting conditions specified in Section 6.01(N)(4) of this resolution where storage of the regulated substances exceeds 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | X | X |
| Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; | X | X | X |
| Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block; | X | | |
| Dry cleaning facilities with on-site dry-cleaning service who's substances exceed 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights; | X | | |
| Installation of Underground Storage Tanks (UST) except as permitted in Section 6.01(S)(4) of this resolution; and | X | X | X |
| Temporary or permanent storage of regulated substances other than vehicle fuels, vehicle lubricants, and fuel for building and/or process heat in new USTs, except as permitted in Section 6.01(S)(4)(c) of this resolution; | X | X | X |
| Rail switch yards and container ports; | X | X | X |
| The application of sewage sludge or biosolids; and | X | X | X |
| All oil and gas drilling and exploration; and all injection wells for the disposal of oil and gas drilling-related fluids and hydraulic fracturing fluids. | X | X | X |

(2) Conditional Uses Applicable to all Source Water Protection TOT Zones

Lawn, garden, pesticide, and agricultural services which have on-site bulk mixing or blending of fertilizers, pesticides, and other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored on site meet or exceed 500 gallons aggregate for liquid materials or 4,000 pounds aggregate for dry weights, may only be permitted in the five-year TOT zone if approved by the BZA as a conditional use in accordance with Section [3.06: Variance or Conditional Use](#).

(E) Compliance with Existing Federal, State, and Local Regulations

Facility operators subject to regulation under this resolution must comply fully with all existing applicable federal, state, and local regulations in addition to any of the requirements established in this resolution.

(F) Continuation of Existing Non-Conforming Facilities and Non-conforming Uses of Land

- (1) Where, at the effective date of the adoption of, or amendment to, the provisions set forth herein, lawful use of land exists that is no longer permissible under the provisions of this article as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to provisions of this resolution.
- (2) Any nonconforming use of land, building, or regulated substance storage unit existing as of the effective date of adoption of, or amendment to, the provisions set forth herein and which operates within a Source Water Protection Area TOT Zone is permitted to continue operation as a nonconforming existing land use, building, or regulated substance storage unit provided it remains otherwise lawful; and complies with the provisions of this resolution which apply to existing facilities.
- (3) An existing use made nonconforming solely by application of the Source Water Protection provisions set forth herein shall be treated as non-conforming only as to those uses prohibited by these Source Water Protection provisions. As to existing uses not prohibited or otherwise regulated by these Source Water Protection provisions, those uses remain conforming such that they may be expanded or otherwise altered without violation of this resolution.

(G) Regulated Substances

- (1) Regulated substances shall be those substances listed in Section [6.01\(X\)\(1\)](#) herein when storage or use at a facility at any time of the year meets or exceeds those thresholds specified in Section [6.01\(X\)\(2\)](#). A facility operator may, at their choice, calculate the quantity of regulated substances stored or used on site as follows:
 - (a) The facility operator may report the quantity of regulated substances stored or otherwise used on site as the maximum amount found on site at any one time during the course of a year. Where there are seasonal fluctuations in regulated substance use, the amount should be based on storage or use of regulated substances during peak times of the year; or
 - (b) The facility operator may calculate the daily average of regulated substance storage or use on site over the course of a month. The facility operator must calculate this average using the anticipated quantity of regulated substances storage or use during peak months at the facility.
- (2) A substance listed in Section [6.01\(X\)\(1\)](#) may be partially or fully exempt from regulation under this resolution if use or storage of the regulated substance is exempted under Sections [6.01\(B\)\(2\)](#) or [6.01\(B\)\(3\)](#) of this resolution, or if the facility operator can provide proper documentation to the Zoning Inspector that a regulated substance does not present a threat to groundwater due to the nature of the substance. Information from the substance manufacturer or other qualified, verifiable source indicating that the substance does not present a threat to groundwater shall be considered proper documentation.
- (3) The Zoning Inspector reserves the right to designate additional substances or remove substances from the list of regulated substances in Section [6.01\(X\)\(1\)](#) as necessary for the protection of the groundwater resource. Any addition/deletion to the list shall be considered a text change and therefore requires public notice of the intended change in accordance with zoning amendment process of Section [3.05: Zoning Text or Map Amendment](#).

(H) Facility Registration

- (1) Facility registration is required once every two years for any facility where on site storage or use of regulated substances meets or exceeds those quantities established in Section [6.01\(X\)\(2\)](#) of this resolution, or for any activity identified as a regulated activity under Section [6.01\(T\)](#) of this resolution or for any active ground water monitoring or remediation system regulated by the USEPA, Ohio EPA or BUSTR. A facility operator may register the facility or, at the request of the facility operator, the Zoning Inspector may register the facility. The Zoning Inspector shall conduct any facility registration in the following manner:

 - (a) The Zoning Inspector shall provide written notice of the intent to register the facility no less than 14 days prior to the registration date;
 - (b) The registration shall be conducted at reasonable times during normal business hours. To help ensure accuracy of the registration and safety of the persons involved, the facility operator or designee must accompany the Zoning Inspector during the registration;
 - (c) The registration will not unreasonably interfere with facility operations; and
 - (d) The scope of the registration will be limited to gathering information necessary to complete the registration required by this resolution.
- (2) All facility registrations must be completed and, where applicable, submitted to the Zoning Inspector within 180 days of the date a property becomes subject to regulation under this resolution, and by July 1 of every second year thereafter. A facility operator choosing to have their facility registered by the Zoning Inspector must contact the Zoning Inspector no less than 30 days before a registration is due to ensure completion of the registration by the required due date.
- (3) Facility registration will include, but is not necessarily limited to, information on the following:

 - (a) Name, address, and phone number of the registered facility;
 - (b) Facility operator name and number;
 - (c) Emergency contact, address, and phone;
 - (d) Primary and, where applicable, secondary business activities at the Facility, including Standard Industrial Classification codes or Chemical Abstract Service (CAS) number and a brief description of how regulated substances are used at the facility;
 - (e) The types, quantity, and location of regulated substances stored or otherwise used on-site. Where the regulated substance is identified by a common trade name or a mixture, the primary chemical components must be identified;
 - (f) The manner of regulated substance storage (i.e., ASTs, 55 gallon drums, totes, etc.). AST registration will include information on current tank status, contents, volume, construction, and age;
 - (g) A general description of any secondary containment or other spill containment and/or spill prevention measures used at the facility for regulated substance storage units or storage areas;
 - (h) A general description of regulated substance waste disposal methods. Where applicable, the facility's hazardous waste generator identification number must be provided;
 - (i) Where applicable, location of any groundwater monitoring equipment on the facility's property;
 - (j) Where applicable, the location of any dry wells on the facility property;
 - (k) Where applicable, the type of septic system used on site and type of waste treated;

- (l) Where applicable, the location of any production wells used for potable and non-potable use on the facility property or any unused well of any type;
 - (m) For facilities located in approved Storm Water Management Zones and approved Storm Water Management Plans; Compliance with such a plan must be in addition to compliance with the requirements of this Source Water Protection Program.
- (4) Any person identified as the emergency contact for a facility under part (3) must have authority to provide additional information about the facility and materials stored or otherwise used on site when requested and to authorize the use of response personnel, including hazardous materials contractors, in the event of a release at the facility. The facility operator must notify the Zoning Inspector of any change in contact person, phone number, and/or address of the emergency contact person no later than two weeks after any change.
- (5) The facility operator must sign the completed facility registration. The facility operator's signature shall serve as acknowledgment of the accuracy of the registration and compliance with the following, where applicable:
 - (a) Storage Unit Inspections - compliant with Section [6.01\(N\)\(2\)](#); and
 - (b) Development and implementation of a Spill Control Plan - compliant with Section [6.01\(R\)](#), et seq.
- (6) Any facility operator whose facility is registered by the Zoning Inspector must submit a copy of the signed registration to the Zoning Inspector no later than two weeks after the registration date.
- (7) Any facility operator required to register a facility or regulated substance storage unit under another federal, state, or local program may submit a copy of that registration to the Zoning Inspector to expedite the registration process. Any existing registration information should be presented to the Zoning Inspector prior to or at the time of facility registration.
- (8) Any facility subject to regulation under this Resolution that begins operation or commences conduct governed by this Resolution after the effective date of this resolution must be registered in accordance with Section [6.01\(H\)\(1\)](#) no later than 180 days after beginning operation.
- (9) Any previously exempt facility that becomes subject to the requirements of this resolution due to changes at the facility must be registered in accordance with Section [6.01\(H\)\(6\)](#) no later than 180 days after becoming subject to regulation under the resolution. A previously exempt facility becomes subject to regulation under this resolution when:
 - (a) A new AST or UST system subject to regulation under this resolution is installed at the facility;
 - (b) There is a permanent change in the type and/or volume of regulated substances stored or otherwise used at the facility that results in the storage or use of regulated substances in quantities meeting or exceeding the thresholds established in Section [6.01\(X\)\(2\)](#); and/or
 - (c) There is a change in the delineated TOTs as specified in Section [6.01\(C\)\(2\)](#) of this Resolution.
- (10) A facility operator must amend an existing facility registration, or may request that the Zoning Inspector amend the registration, no later than 60 days after any:
 - (a) Change in ownership or management of the facility;
 - (b) Installation, return to service, or removal of an AST or UST system subject to regulation under this resolution;

- (c) Permanent on-site storage or use of a previously unregistered regulated substance in quantities meeting or exceeding the thresholds established in Section [6.01\(X\)\(2\)](#); and/or
 - (d) Change in the delineated TOTs as specified in Section [6.01\(C\)\(2\)](#) of this Resolution.
 - (e) No later than 90 days after permanent cessation of regulated operations or storage of regulated substances as specified in Section [6.01\(J\)](#).
- (11) A facility operator choosing to have their facility registration amended by the Zoning Inspector must contact the Zoning Inspector no less than 30 days before a registration is due to ensure completion of the registration within the allowed 60 day time frame when meeting parts (a) through (d). The facility operator is responsible for amending a registration under the part (e).
- (12) Any person owning and/or operating more than one facility subject to regulation under this resolution must register each regulated facility separately in accordance with the provisions of this resolution.

(I) Temporary Storage of Regulated Substances

- (1) This section applies to the temporary storage of regulated substances at new and existing non-residential facilities in the Source Water Protection Area when the regulated substances are stored or otherwise used in quantities meeting or exceeding the quantity thresholds established in Section [6.01\(X\)\(2\)](#).
- (2) Temporary storage subject to regulation under this resolution must meet the following conditions when aboveground:
- (a) The regulated substance storage unit(s) must meet the general container requirements specified in Section [6.01\(N\)\(2\)](#) through [6.01\(N\)\(4\)](#) of this resolution; and
 - (b) When possible, the temporary storage unit(s) should be located in a non-hazardous area (i.e., where the unit(s) is not generally exposed to routine vehicular traffic, flammables, or other hazards).
- (3) Any regulated substance release meeting or exceeding the release notification criteria in Section [6.01\(K\)\(1\)](#) must be reported and remediated in accordance with Section [6.01\(K\)](#), et seq. herein.
- (4) Temporary storage of regulated substances beyond 90 days is permitted provided compliance with the following requirements.
- (a) The facility operator must notify the Zoning Inspector of the need to continue temporary storage of the regulated substances prior to expiration of the temporary storage period. The facility operator shall submit notification to the Zoning Inspector on a prescribed form supplied by the Zoning Inspector at the request of the facility operator. The notification shall specify:
 - (i) Facility name, address, and telephone;
 - (ii) Facility operator name and twenty-four (24) hour emergency contact. Designation of an emergency contact must be done in accordance with Section [6.01\(H\)\(2\)](#);
 - (iii) Regulated substances temporarily being stored at the facility;
 - (iv) The manner in which the regulated substances are stored; and
 - (v) The anticipated date when temporary storage will cease.
 - (b) The regulated substance continues to be stored in compliance with Section [6.01\(I\)\(2\)](#) when aboveground.

(J) Facility Closure

- (1) This section applies to any nonresidential facility subject to regulation under this resolution that becomes unoccupied or where operations are permanently discontinued for a period greater than 90 consecutive days any time after the effective date of this resolution. Facility operators subject to compliance with any federal, state, or local facility closure program addressing the storage or handling of regulated substances at a closing facility are exempt from the requirements in this Section except for compliance with Section [6.01\(J\)\(3\)](#).
- (2) Except in the case of seasonal discontinuation of operation, the facility operator must remove all regulated substances other than those used exclusively for heating, cooling, and providing electrical lighting for the premises from the property no later than 90 days after the date the property initially became unoccupied or operation was permanently discontinued.
- (3) Any facility operator permanently discontinuing operation of a facility subject to regulation under this resolution must submit an amended facility registration to the Zoning Inspector in accordance with Section [6.01\(H\)\(7\)](#). The amended facility registration shall include the date on which operations will or have ceased; the current operator's new phone number and address; and the fate of regulated substances stored or otherwise used on site. Any facility operator who is required to submit a closure notification under any federal, state, or local closure program may copy the Zoning Inspector on that notification in lieu of submitting an amended facility registration.
- (4) Upon permanent closure of a facility, the facility operator must take reasonable steps to secure all regulated substance storage units or regulated substance storage areas against vandalism. Compliance with Sections [6.01\(N\)\(2\)](#) through [6.01\(N\)\(4\)](#) and maintenance of all security measures implemented in accordance with this Section are required until all Regulated Substances are removed from the site.

(K) Regulated Substance Releases

- (1) Any release of a regulated substance within a Source Water Protection Area must, if such release:
 - (a) Originates from an underground storage tank; or
 - (b) Contacts a pervious ground surface; and
 - (c) Is not immediately and completely remediated within twenty-four (24) hours; or
 - (d) Enters a surface water body; or
 - (e) Enters a dry well, monitoring well, abandoned well or storm sewer,
 - (f) Be reported to the Zoning Inspector or on-duty drinking water treatment plant operator or Ground Water Consortium Manager within 24 hours of discovery by the facility operator or any other party responsible for the storage unit from which the release occurred. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.
- (2) Initial notice shall include, at a minimum, information related to the following:
 - (a) Location of the release (facility name, address, and phone);
 - (b) Facility/responsible party's name, address, and phone if it is different from (a);
 - (c) Emergency contact and phone;
 - (d) Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released; and
 - (e) Description of preliminary release control and mitigation efforts.

- (3) Within seven days of a reported release, the responsible party must submit to the Zoning Inspector a regulated substance release report providing any additional detail on the nature and management of the release, including control and corrective actions taken, fate of the released material, and, where applicable, the name of the contractor responsible for removal of released substances. Information submitted in the regulated substance release report shall be used by the Zoning Inspector to determine if and where any additional follow-up work needs to be completed to assess the potential pollution impact of the release.
- (4) Upon discovery of a release, the facility operator or other responsible party must take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance release must be handled in accordance with Sections [6.01\(N\)\(2\)](#) through [6.01\(N\)\(4\)](#) when the quantity of regulated wastes generated meet or exceed the quantity thresholds established in Section [6.01\(X\)\(2\)](#), in addition to all applicable legal requirements. Storage of these materials for a period of greater than 90 days must be reported to the Zoning Inspector by the facility operator in accordance with Section [6.01\(I\)\(3\)](#).
- (5) The responsible party must copy the Zoning Inspector on all correspondence submitted to federal, state, or local agencies related to site assessment and site remediation. The Zoning Inspector may request, if deemed necessary, that:
 - (a) The Fire Department provide a copy of the department's Ohio Fire Incident Reporting System report to the Zoning Inspector;
 - (b) The Ohio EPA provide a copy of the agency's Emergency Response Section Incident Report to the Zoning Inspector; and/or
 - (c) The facility operator develops and implements procedures to minimize the likelihood of reoccurrence of such a release. The facility operator must submit procedures developed under this provision to the Zoning Inspector no later than 60 days after being required and implemented no later than 180 days after approval by the Zoning Inspector.
- (6) Ross Township or Butler County is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any hazardous material release to soils, surface water, and/or groundwater in or near a SWPA which may present a threat to groundwater quality or violate Ohio's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the County in response to such an incident, in addition to any fines imposed under Ohio and Federal law, and this resolution.

(L) Records Retention

The facility operator must retain all records, reports, or other documentation related to the requirements of this resolution on site for a minimum of five years from the original date of the record, report, or document.

(M) Inspection

The Zoning Inspector shall inspect all facilities subject to regulation under this resolution no less than once every two years for compliance with the provisions of this Resolution. Any inspection shall be conducted under the conditions listed in Section [6.01\(H\)\(1\)\(a\)](#) through [6.01\(H\)\(1\)\(d\)](#).

(N) General Regulated Substance Storage Provisions: Above Ground Storage

- (1) This section applies to the above ground storage of regulated substances in the Source Water Protection Area in quantities meeting or exceeding those specified in Section [6.01\(X\)\(2\)](#).
- (2) All containers subject to regulation under this resolution used for the storage or use of regulated substances at new and existing non-residential facilities must be:
 - (a) Product-tight and free of any defects which may result in a release of the contained regulated substance;
 - (b) Made of or lined with materials that will not react with and are otherwise compatible with the regulated substance stored;
 - (c) Individually and clearly labeled with the contents of the container. If a regulated substance is being stored on site under the temporary storage provisions (Section [6.01\(I\)](#)), the regulated substance storage unit must also be labeled with the date on which temporary storage began.
 - (d) Stored on or above an impervious surface at all times that is free of any gaps, cracks, or other effects of deterioration that would allow for the penetration of regulated substances stored on that surface into surrounding soils, or, if stored on a pervious surface, stored with secondary containment in the form of a dike, containment pallet, or other containment unit capable of containing a release from the regulated substance storage unit. Existing ASTs are exempt from this requirement; and
 - (e) Visually inspected weekly by the facility operator for any evidence of leaks, improper storage, or potential hazards that may result in a release of materials being stored in or transferred into the storage unit. Aisle space between containers must be adequate to allow for inspections. Where applicable, any leak detection or early warning system associated with an AST also must be inspected on a weekly basis. The facility operator must maintain a record of inspections and the findings of those inspections, and made available on request by the Zoning Inspector. Any weekly inspection log maintained by a facility operator under another federal, state, or local program shall satisfy the requirements of this part provided the inspection includes those regulated substance storage units regulated under this resolution.
- (3) Any facility operator installing an impervious surface or providing secondary containment under Paragraph [6.01\(N\)\(2\)\(d\)](#) above must do so no later than one-hundred eighty (180) days after becoming subject to regulation under Paragraph [\(6.01\(N\)\(2\)\(d\)](#). Continued storage of Regulated Substances on a pervious surface beyond this 180-day period is permitted only if granted a temporary variance.
- (4) A facility operator must remove defective storage units from service immediately and repair or replace the defective units if needed. Defective storage units permanently taken out of service must be decontaminated and disposed of in accordance with applicable federal, state, and local waste management standards.
- (5) Any truck, trailer, tanker, or rail car used for the storage of regulated substances within the Source Water Protection Area must:
 - (a) Be structurally stable and free of any defects that may result in a release of the Regulated Substances stored in the truck, trailer, tanker, or rail car;
 - (b) Be clearly labeled with the contents;
 - (c) Be visually inspected weekly by the facility operator for any evidence of leaks, improper storage, or potential hazards that may result in a release of materials being stored in or transferred into or out of the storage unit; and

- (d) Have all doors, valves, or other openings through which a release could occur locked or otherwise secured when not in use so as to prevent a release of the regulated substance through the openings.
- (6) Permanent storage or use of regulated substances subject to regulation under this Resolution at new and existing facilities in a storage unit where a release from the storage unit would reach a pervious soil surface, dry well, storm sewer, or surface water body requires the development of a Spill Control Plan in accordance with Section [6.01\(R\)](#). A facility operator is exempt from this requirement if the storage unit or storage/usage area is secondarily contained.
- (7) All containers subject to regulation under this resolution used for the storage or use of regulated substances at new and existing residential uses must be:
 - (a) In compliance with parts (a), (b), (c), and (d) in Section [6.01\(N\)\(2\)](#);
 - (b) Visually inspected by the facility operator on a monthly basis. Where applicable, any leak detection or early warning system associated with an AST also must be inspected at that time; and, where applicable,
 - (c) Provided with a Spill Control Plan in accordance with Section [6.01\(R\)\(5\)](#).

(O) Aboveground Storage Tank (AST) Installation

- (1) This section applies to the installation of ASTs at new or existing facilities after the effective date of this resolution when the capacity of the AST meets or exceeds the quantity thresholds established in Section [6.01\(X\)\(2\)](#). All new ASTs must be registered in accordance with Section [6.01\(H\)](#) and meet the general handling requirements specified in Section [6.01\(N\)\(2\)](#) in addition to the following as required:
 - (a) All ASTs must have ground clearance of no less than two inches from the outermost wall of the AST to allow for visual inspection of the underside of the AST. This requirement may be waived if the size of the AST prevents raising the tank as required or the AST is a concrete vaulted tank.
 - (b) All ASTs meeting or exceeding the thresholds established for secondary containment in Section [6.01\(P\)\(2\)](#) herein must be installed with secondary containment meeting or exceeding those requirements specified in Sections [6.01\(P\)\(3\)](#) through [6.01\(P\)\(5\)](#).
 - (c) Any AST meeting or exceeding the thresholds established for secondary containment in Section [6.01\(P\)\(2\)](#) and which is installed in an area where the AST is open to vehicle damage must be protected against impact with physical barriers meeting the approval of the Zoning Inspector. Any impervious dike utilized as secondary containment meets the requirements for a physical barrier.
 - (d) Replacement of an existing AST after the effective date of this resolution with any new or used AST is considered installation of a new system and therefore subject to any federal, state, and local regulations for the installation of new ASTs in addition to the provisions of this resolution, unless specified otherwise.

(P) Secondary Containment Requirements

- (1) The following are exempt from secondary containment requirements set forth in this resolution:
 - (a) Storage of regulated substances indoors in an area capable of fully containing within the facility a total release of the regulated substances for which the exemption is being claimed, or draining the release to a wastewater treatment system capable of treating the released substances. NOTE: Septic tank systems do not qualify as a wastewater treatment system under this exemption;

- (b) Storage of regulated substances as consumer products packaged in original containers;
 - (c) Storage of regulated substances in storage units/areas with secondary containment comparable to or exceeding that required in Sections [6.01\(P\)\(3\)](#) through [6.01\(P\)\(5\)](#) herein; and
 - (d) ASTs located in the 10-year TOT.
- (2) Unless exempted under Section [6.01\(P\)\(1\)](#), secondary containment is required as follows for ASTs installed after the effective date of this resolution:
 - (a) All ASTs installed in the one-year TOT with a capacity exceeding 55 gallons; and
 - (b) All ASTs installed in the five-year TOT with a capacity of 500 gallons or more when storing petroleum or petroleum-based products, or 250 gallons or more when storing all other regulated substances.
- (3) Secondary containment systems must be constructed of or lined with materials compatible with the regulated substance stored. Secondary containment must be of sufficient thickness, density, and composition so as not to be structurally weakened from contact with the regulated substance or precipitation, and must be free of cracks, joints, gaps, or other imperfections which would allow leakage through the containment.
- (4) An AST must have at least one of the following at the choice of the facility operator:
 - (a) Double walls designed as a containment area and providing the facility operator with manual or electronic interstitial space monitoring capabilities. Laminated, coated, or clad materials shall be considered single-walled and shall not be construed to fulfill the requirement for double walling; or
 - (b) Diking capable of containing 110 percent of the total volume of the tank. If the storage area contains multiple ASTs, the secondary containment must be large enough to contain 150 percent of the volume of the largest AST placed in it, or 10 percent of the aggregate internal volume of all ASTs in the storage area, whichever is greater.
- (5) **Precipitation**
 - (a) If an AST using a dike as a secondary containment system is exposed to and subject to accumulation of precipitation within the dike, the dike must be designed and operated as follows:
 - (i) The base of the dike must be sloped to a collection point or sump to allow for controlled removal of accumulated storm water or spilled regulated materials; and
 - (ii) If the dike is penetrated by a drainage pipe, the pipe must have a lockable valve. This valve shall be kept closed and locked under normal conditions until a determination is made by the facility operator that the discharge of storm water is acceptable pursuant to Paragraph [6.01\(P\)\(5\)\(b\)](#).
 - (b) Storm water accumulated within secondary containment that is known or suspected to contain a release from the primary containment unit must be handled in accordance with applicable federal, state, or local laws. No potentially contaminated stormwater may be discharged to a sanitary sewer without approval of the Zoning Inspector. The Zoning Inspector may require analysis of the stormwater before allowing discharge to the sanitary sewer if the released substance could present a treatment problem at the wastewater treatment plant. The facility operator must take all reasonable steps to neutralize the stormwater before discharging the stormwater to any septic system, dry well, sewer, soil, or surface water body.

(Q) Temporary Placement Out of Service of ASTs

- (1) Any facility operator intending to place an AST system out of service for less than one year must remove the system from service in accordance with Resolution 1301:7-7-28, Section FM-2807.2.1 of the State Fire Code in addition to any other applicable federal, state, or local regulations. Any AST meeting any of the secondary containment exemption criteria in Section [6.01\(P\)\(1\)](#), or any heating fuel AST taken out of use for seasonal conditions, is exempt from this requirement.
- (2) Unless required otherwise under another applicable federal, state, or local regulation, any AST placed out of service for more than 90 consecutive days but less than one year which is to be brought back into service must be brought back into service by the facility operator in accordance with Resolution 1301:7-7-28, Section FM-2807.2.1 of the State Fire Code. Any AST meeting any of the secondary containment exemption criteria in Section [6.01\(P\)\(1\)](#) is exempt from this requirement.

(R) Spill Control Plans

- (1) Facility operators required to develop a Spill Control Plan (SCP) must complete the plan no later than 180 days after becoming subject to this requirement. The Zoning Inspector may provide, at the request of the facility operator, a template of the SCP to facilitate development of the SCP. The SCP does not require the signature of a professional engineer. The SCP must be stored on site and made available on request to the fire department or other inspection authority.
- (2) Any SCP developed in compliance with other federal, state, or local regulatory programs may satisfy the requirements of this provision provided that SCP contains all information specified in Section [6.01\(R\)\(2\)](#). Any deficient information must be amended into the existing SCP to be considered compliant with this Section. If a pre-existing SCP is being used to satisfy this requirement, only compliance with Sections [6.01\(R\)\(3\)](#) and [6.01\(R\)\(4\)](#) is required. Where applicable, one copy of the SCP must be kept in the facility's repository box (lock box).
- (3) The SCP must specify all of the following:
 - (a) Facility name, address, and phone;
 - (b) Facility operator name and phone;
 - (c) Emergency contact and phone. Designation of an emergency contact must be done in accordance with Section [6.01\(H\)\(2\)](#);
 - (d) A brief description of the type of business conducted at the facility;
 - (e) The location of the regulated substance storage areas for which the SCP is being developed;
 - (f) The type(s) and normally anticipated quantity of regulated substances stored in the regulated substance storage areas for which the plan is being developed;
 - (g) Potential hazards (including activities) to the regulated substances stored in the area;
 - (h) All openings/routes through which a release from the storage areas would potentially flow into the Facility's property and within 500 feet beyond the property line, including floor drains, doorways, storm sewers, dry wells, streams, and other openings/routes;
 - (i) Emergency response procedures to be followed in the event of a release, including specific points of contact for releases, evacuation procedures, and emergency notification procedures for appropriate federal, state, and local agencies; and
 - (j) Emergency equipment available to the facility operator and location of equipment.

- (4) A facility operator must train all employees annually on the release procedures outlined in the SCP. The facility operator must maintain a log of employee training and make the log available to the Zoning Inspector upon request. Copies of the SCP must be readily available for employee use in work areas in or near regulated substance storage areas.
- (5) A facility operator must review and amended the SCP as necessary every two years and when any of the following occur:
 - (a) There is a change in ownership or management at the facility;
 - (b) An out-of-service AST system lacking secondary containment comparable to that required in Section [6.01\(P\)](#) is returned to service; and/or
 - (c) Changes, structural or otherwise, are made at the facility that will affect the anticipated flow direction of any release from the storage area or unit (ex: regrading of property, paving, building additions).
- (6) Any residence with a regulated substance storage unit required to have a Spill Control Plan shall receive information from the Zoning Inspector on how to respond to a release from the storage unit as those units are registered. This information shall be provided in an easy-to-follow format. The owner of the regulated substance storage unit must keep any information related to spill control readily available in the event of a release.

(S) Underground Storage Tanks

- (1) This resolution applies to any person currently owning and/or operating or intending to own and/or operate any underground storage tank (UST) with a capacity exceeding 55 gallons when located within the one-year or five-year TOT, or with a capacity meeting or exceeding 500 gallons or more when located within the ten-year TOT.
- (2) The following USTs are exempt from regulation under this Section: USTs containing de minimis quantities of a regulated substance. A de minimis quantity is one inch or less. Any claim that a UST contains de minimis quantities when storing more than one inch of regulated substance shall be determined by the Zoning Inspector on a case-by-case basis. A facility operator must submit verification to the Zoning Inspector that the UST contains a de minimis quantity of a regulated substance when making any de minimis claim.

(3) Registration of UST Systems

- (a) All UST systems subject to regulation under this Resolution must be registered in accordance with Section [6.01\(H\)](#) of this resolution. Any facility operator required to annually register a UST system with the State Fire Marshal under OAC 1301:7-9-04 may provide a copy of that registration to the Zoning Inspector to satisfy this registration requirement.
- (b) UST registration shall include, but is not limited to, information on the following:
 - (i) Facility name, address, and phone;
 - (ii) Facility operator, address, and phone;
 - (iii) Number, size, construction, date of installation, and location of USTs;
 - (iv) Regulated Substances stored in the UST; and
 - (v) Brief description of the type of monitoring equipment used for tanks.
- (c) Any new UST system subject to regulation under this resolution that is installed at a facility beginning operation after the effective date of this Resolution must be registered in accordance with Section [6.01\(H\)](#) no later than 180 days after beginning operation.
- (d) Any previously exempt facility that becomes subject to regulation under this resolution due to:

- (i) Installation of an UST subject to regulation under this resolution;
 - (ii) Return to service of any temporarily abandoned UST or UST containing de minimis quantities of regulated substances; and/or
 - ~~(iii)~~ Changes in the delineated Source Water Protection Area as specified in Section [6.01\(C\)](#) herein. must be registered in accordance with Section [6.01\(H\)](#) no later than 180 days after becoming subject to regulation under this resolution.
- (e) A facility operator must amend, or at the request of the facility operator, the Zoning Inspector must amend an existing UST registration no later than 60 days after any:
- (i) Replacement of an existing UST system;
 - (ii) Change in ownership or management of the Facility;
 - (iii) Return to service of any temporarily abandoned UST or UST containing de minimis quantities of Regulated Substances;
 - (iv) Permanent abandonment and/or removal of a UST; and/or
 - (v) Change in the delineated Source Water Protection Area as specified in Section [6.01\(C\)](#) herein.
- (f) A facility operator choosing to have their facility registration amended by the Zoning Inspector must contact the Zoning Inspector no less than 30 days before a registration is due to ensure completion of the registration within the allowed 60-day time frame.
- (g) Any person owning and/or operating more than one facility subject to regulation under this resolution must register each regulated facility separately in accordance with the provisions of this resolution.
- (4) UST Installation Requirements**
- (a) All USTs subject to regulation under the BUSTR Sensitive Area regulations (OAC 1301:7-9-10) must be installed in accordance with those requirements when installed in the Source Water Protection Area.
 - (b) All Petroleum UST systems subject to SWP provisions must hold a current and valid certificate of coverage from the State of Ohio Petroleum Underground Storage Tank Release Compensation Board.
 - (c) Heating fuel and diesel fuel USTs subject to regulation under this resolution must be vaulted in accordance with Section [6.01\(S\)\(4\)\(d\)](#) herein.
 - (d) UST systems installed for permanent storage, use, or handling of regulated substances other than vehicles fuels, vehicle lubricants, and fuel for building and/or process heating must be vaulted in accordance with Section [6.01\(S\)\(4\)\(d\)](#) herein.
 - (e) Vaults must meet the criteria specified in OAC 1301:7-9-10(C)(2)(a) and (c). The facility operator must inspect the vaulted UST at least once every 30 days for visible signs of leaks, cracks, or other structural defects that may result in the release of the substance into the vault or surrounding soils.
- (5) For the purpose of this Resolution, replacement of an existing UST shall be considered installation of a new system and required to comply with any applicable federal, state, and local regulations for the installation of new USTs in addition to the provisions of this resolution, unless specified otherwise.

- (6) Temporary Placement Out-of-Service, Temporary Closure, Abandonment, Removal, and Change in Service of UST Systems**
- (a)** Facility operators must comply with all applicable federal, state, and local regulations for the temporary placement out of service, closure, abandonment, removal, or change in service of any UST system in addition to any requirements set forth in this regulation.
 - (b)** No UST system located in the Source Water Protection Area may be abandoned in place unless approved by a certified fire safety inspector or the State Fire Marshal. The facility operator must copy the Zoning Inspector on any closure assessment and other information related to the closure and abandonment in place of the UST system as the information is submitted to the Bureau of Underground Storage Tank Regulations, the State Fire Marshal, or Ohio EPA.
- (7) Tank Tightness Testing**
- (a)** The following USTs are exempt from the tank tightness testing provisions required by this resolution: 1) USTs regulated under and operated in compliance with the BUSTR Sensitive Area Requirements (OAC Resolution 1301:7-9-10), 2) USTs vaulted in accordance with Section [6.01\(S\)\(4\)\(d\)](#) thereof; and 3) USTs with a capacity of less than 500 gallons used exclusively for holding diesel fuel and heating fuel oil grades no. 1 and 2.
 - (b)** Any UST not exempt under Section [6.01\(S\)\(7\)\(a\)](#) hereof must be tested for tightness as follows:
 - (i)** Prior to the conveyance of real property by sale or otherwise on which an UST is located, the grantor shall have each UST located thereon tested for tightness in accordance with OAC Resolution 1301:7-9-07(E)(3) and (F)(2), provided no such UST shall be subject to testing more than three times in the same 10-year period.
 - (ii)** Where a conveyance of real property on which an UST is located has not occurred within any consecutive ten-year period, commencing from the effective date of this resolution, the owner shall cause each UST located thereon to be tested for tightness in accordance with OAC Resolution 1301:7-9-07(E)(3) and (F)(2) within such period.
 - (iii)** Testing results shall be submitted to the Zoning Inspector no later than 30 days after completion of the test. A tightness test is not required if the UST will be removed in conjunction with sale of the property or where a test has been completed for a UST within one year prior to sale or transfer of ownership of a property.
 - (c)** If a UST fails a tank tightness test, the facility operator must determine if a release has occurred. If a release is confirmed, the release must be reported and remediated in accordance with Section [6.01\(K\)](#), et seq., herein.

(T) Management of Other Potential Pollution Sources

(1) Land Application of Pesticides and Fertilizers

- (a)** This section applies to the application of restricted use pesticides as identified by the United States Environmental Protection Agency at existing and new commercial, recreational, and agricultural facilities in the one- and five-year TOT.

- (b) Facility operators applying restricted use pesticides within the one-year and five-year TOT in any quantity must register the application of those restricted use pesticides with the Zoning Inspector within 180 days of the effective date of this resolution and by March 1 of every second year thereafter. Any facility operator required to maintain records of restricted use pesticide application under any other federal, state, or local program may submit a copy of those records to the Zoning Inspector to satisfy this registration requirement. A facility operator may request that the registration be completed by the Zoning Inspector. A facility operator choosing to have their facility registered by the Zoning Inspector must contact the Zoning Inspector no less than 90 days before a registration is due to ensure completion of the registration by the required due date.
 - (c) Registration will include, but is not necessarily limited to, general information on the facility and the application of restricted use pesticides at the facility.
 - (d) Any previously exempt Facility that becomes subject to regulation under this section due to:

 - (i) Changes in the types of pesticides applied at a facility from non-restricted to restricted use pesticides; and/or
 - (ii) Changes in the delineated Source Water Protection Area as specified in Section [6.01\(C\)](#) herein must be registered in accordance with Section [6.01\(T\)\(1\)\(b\)](#).
- (2) Road Salt Storage**
- (a) All road salt stored at new facilities in the one-year and 5-year TOT must be stored under a covered shelter on an impervious surface capable of catching, diverting and controlling storm water run-off. This requirement does not apply to salt prepackaged for consumer use.
 - (b) Any facility in the one-year TOT storing road salt outdoors in quantities meeting or exceeding 1,000 pounds must be registered in accordance with Section [6.01\(H\)](#).
- (3) On-Lot Sewage Systems**
- (a) Any on-lot sewage system in the Source Water Protection Area used for the disposal of process waters other than sanitary wastes must be registered in accordance with Section [6.01\(H\)](#). Any facility operator required to register such disposal to any other federal, state, or local authority may submit a copy of that registration to the Zoning Inspector to satisfy the registration requirements in this Section. The Zoning Inspector reserves the right to ask for additional information when required.
 - (b) Any facility operator permanently ceasing disposal of process wastes on site through an on-lot sewage system must submit an amended facility registration no later than 60 days of ending disposal in accordance with Section [6.01\(H\)\(7\)](#) herein.
- (4) Commercial Junk and Salvage Yards**
- (a) All commercial junk and salvage yards in the Source Water Protection Area must be registered in accordance with Section [6.01\(H\)](#), et seq., and must comply with the following as applicable: Section [6.01\(J\)](#), et seq. (Facility Closure); Section [6.01\(K\)](#) et seq. (Release Notification); and Section [6.01\(N\)\(2\)](#) (General Container and Regulated Substance Handling Requirements).

- (b) Scrap vehicles or other units brought into a commercial junk yard located within the Source Water Protection Area must have all fluids removed in accordance with current federal, state, and local regulations before on-site crushing and/or storage of the vehicle or unit. All regulated substances removed from a vehicle or other unit must be handled and stored in accordance with current federal, state, and local regulations in addition to the provisions of this resolution as required.

(5) Dry Wells

- (a) The Zoning Inspector must be notified of the installation of any new dry well within the Source Water Protection Area no later than 60 days after installation of the new dry well. Notification shall be provided on a standard form supplied by the Zoning Inspector at the request of the registrant. The registration shall include information related, but not limited to, the location and design of the new dry wells. One registration form may be submitted for the installation of multiple dry wells with the same design at a site.
- (b) Any municipality or facility operator required to register or report a dry well or dry well system to any other federal, state, or local authority may submit a copy of that registration or report to the Zoning Inspector to satisfy the registration requirements of this section. The Zoning Inspector reserves the right to request additional information if required.
- (c) Any municipality, developer, or facility using dry wells for storm water management in the one- year and five- year TOT must develop and implement an annual schedule for the regular inspection and maintenance of those dry wells. All new dry wells shall have limited, controlled access, and be posted with signage indicating: “No Dumping Drains to Drinking Water Aquifer.” as defined in this resolution.

(6) Landfills

All commercial landfills in the Source Water Protection Area must be registered in accordance with Section [6.01\(H\)](#) et seq. Any releases meeting criteria specified in Section [6.01\(K\)\(1\)](#) et seq., or any release to groundwater detected through a groundwater monitoring network associated with the site must be reported to Zoning Inspector in accordance with Section [6.01\(K\)](#) et seq. The Zoning Inspector shall make all reasonable effort to register former unlicensed landfills in addition to commercial landfills or open dump sites.

(7) Wells or Boreholes

- (a) This Section applies to any existing or new well or borehole in a SWPA used for the production of groundwater that does not require plan approval by the Ohio EPA. This includes any well or borehole used for producing water not intended for human consumption.
- (b) Any well or borehole subject to regulation under this section installed after the effective date of this resolution must be installed in accordance with Resolution 3745-9-05 of the Ohio Administrative Code. All new wells or boreholes must be registered by the well or borehole owner with the Zoning Inspector no later than 15 days prior to installation of the well or borehole. All new wells or boreholes must be installed by a State-recognized well driller. All new wells or boreholes must be installed in accordance with the State of Ohio Technical Guidance for well construction and ground water protection.

- (c) All wells or boreholes which are not maintained for production, standby, or observation purposes are to be permanently sealed according to the State of Ohio Technical Guidance Manual for sealing abandoned and unused wells or boreholes developed by the State Coordinating Committee on Ground Water. The facility operator must notify the Zoning Inspector or Ground Water Consortium Manager no later than 15 days prior to abandonment of the well or borehole and all paperwork associated with the well or borehole abandonment process must be filed with the Ohio Department of Natural Resources, the Ground Water Consortium and the Ross Township Zoning Department.
- (d) Any geothermal well or borehole installed in any SWPA must do so in accordance with the State of Ohio Technical Guidance for installation of geothermal wells.
- (e) All fill operations shall use clean, hard fill materials and shall be approved by the administering authority prior to commencement of fill activities.
 - (i) Fill dirt shall not contain fly ash, sewage sludge, asphalt, shingles, construction debris or any other material prohibited by any local, State or Federal regulation.
 - (ii) All fill operations must comply with local, state and federal law including, but not limited to ORC Chapter 3714, and OAC Chapter 3745. In accordance with OAC Chapter 3745-400-05, a written notice of "intent to fill" shall be filed with the County as required by this rule and shall also be filed with the administering authority. Such notice is required to be filed seven days prior to the commencement of fill operations.
 - (iii) All fill sites shall have limited controlled access, and be posted with signage indicating: "Source Water Protection Area. Fines will be imposed for illegal dumping of fill materials. No asphalt, shingles, construction debris, or any other prohibited material." The site must be secured during unauthorized times with emergency contact information posted.
 - (iv) Any violation of this section shall be subject to the penalty provisions of Section [6.01\(U\)](#) of this resolution.

(8) Confined Animal Feeding Operations

- (a) No new or existing confined animal feeding operations located in the one-year TOT may exceed 1,000 animal units at any one time as of the effective date of this resolution. Any manure pits installed at new or existing facilities located in the one- or five-year TOT must be constructed of a lined, impervious material in accordance with best management practices.
- (b) Any facility located in the one-year or five-year TOT with manure pits or exceeding 300 animal units must be registered by the Zoning Inspector in accordance with Section [6.01\(H\)](#) et seq.

(U) Violation, Penalty, and Administrative Remedies

- (1) Any facility operator who knowingly submits false or inaccurate information to the Zoning Inspector, or who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Resolution is considered in violation of this resolution and subject to penalty as set forth herein.
- (2) Any violation of this resolution is considered a minor misdemeanor subject to fines not to exceed \$100.00 per day per offense. Each day that a violation is permitted to exist shall constitute a separate offense.

- (3) In addition to prosecution of a violation as a minor misdemeanor, the Zoning Inspector upon discovery of violation of any provision of this resolution, may pursue with reasonable notice any legally available administrative remedies or enforcement actions including, but not limited to, the following:
 - (a) Ordering cessation of any use or activity that may create hazards or have deleterious effects on the water supply or facilities;
 - (b) Discontinuing utility service to any facility operating in violation of this resolution;
 - (c) Ordering remedial actions;
 - (d) Requiring pollution control and abatement; and
 - (e) Requiring development of compliance schedules to implement corrective action.
- (4) When considering the exercise of any of the above powers or actions, the Zoning Inspector may take into consideration any evidence presented by the entity regarding cost effectiveness and the economic impact imposed by the requirements or actions.

(V) Variance and Appeals under the Source Water Protection Program

- (1) Any person aggrieved by any order issued by the Zoning Inspector under the provisions of this resolution may appeal such decision to the Ross Township BZA in accordance with established filing procedures.

(2) Source Water Protection Appeals Advisory Board Established

The member communities of the Hamilton to New Baltimore Groundwater Consortium and their surrounding jurisdictions have established a Source Water Protection Appeals Advisory Board (SWPAAB) for the technical review of any variance or appeals request submitted under the Source Water Protection Program. The SWPAAB shall consist of representatives from communities in the Hamilton to New Baltimore area as selected by the Butler County Planning Department or other designated authority. The SWPAAB shall operate in accordance with the bylaws developed by and for the group.²²

(3) SWPAAB Review

Before action on any variance or appeal related to an action under Section [6.01](#) of this resolution by the Ross Township BZA, the SWPAAB shall review any variance or appeal request to ensure that the request, if granted, will not present a contamination threat to groundwater. The SWPAAB shall provide a recommendation on the variance or appeal request to the BZA. In doing so, they may include with the recommendation any such alternatives or modifications to the request as necessary to minimize the potential for groundwater contamination. The SWPAAB shall have 30 days from receiving a variance or appeals request to make a recommendation to the BZA. This 30 days period shall be inclusive within, not in addition to, the allowed time frame for review by the BZA.²³

(W) Confidentiality

Information contained in any documentation collected by or submitted to the Zoning Inspector under the provisions of this resolution that is designated as confidential by a facility operator shall be considered confidential only to the extent allowable under Ohio Public Records Law and other applicable federal and state laws.

²² We will have to check how townships that maintain their own zoning are part of this appeals board.

²³ We will need to check how this works with the established timing of review.

(X) Regulated Substances List

(1) Regulated Substance List

The substances to be regulated are those chemicals, mixtures, and other substances, or components thereof, that are known or suspected (as classified by EPA Standards) carcinogens, toxic or highly toxic agents, corrosives, or which otherwise have been determined to be a health hazard or require monitoring as a primary or secondary contaminant under the Safe Drinking Water Act of 1986 (Public Law 93-523), as amended. These substances shall be regulated when the concentration of regulated substances stored or otherwise used on site meets or exceeds those quantities specified in Section [6.01\(X\)\(2\)](#) of this resolution. Regulated substances include:

- (a)** Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum-based products;
- (b)** Antifreeze, transmission fluids, brake fluids, and coolants;
- (c)** Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon or halogenated hydrocarbon solvents;
- (d)** Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning;
- (e)** Organic pigments;
- (f)** Liquid storage batteries;
- (g)** Non-aerosol, non-latex-based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters;
- (h)** Corrosion and rust prevention solutions;
- (i)** Industrial and commercial cleaning supplies, including drain cleaners;
- (j)** Sanitizers, disinfectants, bactericides, and algacides;
- (k)** Pesticides, herbicides, and fertilizers;
- (l)** Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5;
- (m)** Aqueous metals;
- (n)** Road salt (only when stored in the 1-year and 5-year TOT); or
- (o)** Any other material containing one percent or more by weight of a hazardous raw or waste product that is regulated: as an Extremely Hazardous Substance under Section 302 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (OAC Resolution 3750-20); as a Hazardous Substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (OAC Resolution 3750-30); or as a Toxic Chemical regulated under Section 313 of EPCRA (OAC 3745-100).

- (2)** A substance listed above may be exempted from regulation under this resolution if the regulated substance does not present a threat to groundwater due to the nature of the substance, and the facility operator claiming this exemption for a specific regulated substance shows the Zoning Inspector proper documentation from the chemical manufacturer or other qualified, verifiable source that the regulated substance does not present a threat to groundwater.

- (3) Chemicals which are regulated by SDWA, TSCA, RCRA, OSHA, CERCLA, SARA, FIFRA, or other state and/or federal environmental laws and regulations, or for which there is scientific evidence such as the Contaminant Candidate List (CCL) under the USEPA that indicate acute or chronic health effects can result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, teratogens, endocrine disruptors, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, obnoxious substances causing odor and taste problems, and agents which damage the lungs, skin, eyes, or mucous membranes;
- (4) Substances listed in Section [6.01\(X\)\(1\)](#) shall be considered regulated when, at any time of the year, the concentration of regulated substances stored or used at a facility meets or exceeds the lesser of the following quantities:
 - (a) When located within the 1-year and 5-year TOT, in amounts exceeding 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights;
 - (b) When located within the ten-year TOT, in amounts meeting or exceeding 1,000 gallons aggregate for liquid materials or 8,000 pounds aggregate for dry weights when stored aboveground, or 500 gallons aggregate for liquid materials when stored in an underground storage tank.
- (5) Storage of regulated substances packaged as consumer products in original containers for consumer purchase shall be regulated under this resolution only when storage meets or exceeds 500 gallons aggregate for liquid materials or 4,000 pounds aggregate for dry weights, whichever is less, in the 1-year and 5-year TOT, or 1,000 gallons aggregate for liquid materials or 8,000 pounds aggregate for dry weights, whichever is less, in the ten-year TOT.

6.02 VENICE OVERLAY DISTRICT²⁴

(A) Purpose

The Venice Overlay District (VOD) is established to implement the recommendations in the Downtown Venice Redevelopment Report as it relates to the downtown area of Ross Township along State Route 128. The overall purpose of the regulations is to enable the creation of a compact development area that provides for the orderly development of a mixture of land uses. The VOD District and its regulations are established in order to:

- (1) Encourage a broader mixture of complimentary land uses that allowed in any of the underlying base zoning districts that include housing, neighborhood retail, professional offices and civic uses to create an economic and social center for Ross Township;
- (2) Promote responsible planning by providing flexibility in the type, placement and density of buildings while encouraging coordinated design within a unified development area; and
- (3) Promote the expansion of economic development for the township through the addition of the new commercial and residential investment which will create destination-based land uses and activities.

(B) Applicability

- (1) Property owners that are subject to the VOD District may continue to use their property in accordance with the requirements of the applicable base zoning district except that the regulations of the following sections of this article shall apply regardless of the base zoning district:
 - a. Section [6.02\(G\): Area, Frontage and Yard Requirements](#);

²⁴ This District was drafted in 2016 but never went through the final review and adoption process.

- b. Section [6.02\(H\): Signs](#);
- c. Section [6.02\(I\): Parking, Access, and Mobility](#);
- d. Section [6.02\(J\): Landscaping and Buffering](#);
- e. Section [6.02\(K\): Additional Required Conditions](#);

- (2) Any nonconforming use or building established prior to the amendment establishing the VOD shall be subject to the applicable regulations related to nonconforming uses or buildings (See [Article 14: Nonconformities](#)).
- (3) At the election of the property owner, the owner may choose to develop pursuant to the VOD District, in accordance with this section, without requiring the rezoning of the base zoning district.
- (4) Any property zoned as a B-PUD shall be subject to any plans approved as part of the B-PUD process.

(C) Principal Permitted Uses

- (1) Regardless of the underlying base zoning district, any principal use permitted in the B-2 zoning district shall be permitted in the VOD subject to the standards of this article.
- (2) One-family dwellings, two-family dwellings, multiple-family dwellings, garden apartments, row dwellings, and town houses shall also be considered principal permitted uses in the VOD subject to the standards of this resolution and in conformance with the Downtown Venice Redevelopment Plan.²⁵
- (3) Mixed use buildings with any combination of a principal permitted uses within the same structure are permitted in the VOD subject to the standards of this article.

(D) Accessory Use

- (1) Any accessory use allowed in applicable base zoning district or in the B-2 district shall be permitted in the VOD. See Section [8.01: Accessory Use Regulations](#).
- (2) For any residential use, accessory uses traditionally associated with residential uses shall be allowed as accessory to a dwelling in the VOD.

(E) Prohibited Uses

Check cashing establishments, cash advance establishments, pawn shops, and rent-to-own stores are specifically prohibited in the VOD.

(F) Maximum Height

No structure shall exceed three stories or 40 feet in height, except as provided in Section [5.05\(A\)\(4\)\(d\)](#).

(G) Area, Frontage and Yard Requirements²⁶

The following minimum requirements shall be observed, except as modified by the provisions of Section [5.05\(A\)](#):

- (1) There shall be no minimum lot area requirement.
- (2) The minimum front yard setback shall be 10 feet as measured from the street right-of-way to the principal building.
- (3) There shall be no minimum side yard width requirement unless the lot line is adjacent to a residential district outside of the VOD. In such case, there shall be a minimum side yard of 20 feet.

²⁵ This will allow for the senior housing and higher density housing envisioned by the plan.

²⁶ This is fairly similar to the B-2 requirements. It will be most beneficial to residentially zoned properties.

- (4) There shall be no minimum rear yard depth requirement unless the lot line is adjacent to a residential district outside of the VOD. In such case, there shall be a minimum rear yard of 25 feet.

(H) Signs

- (1) Freestanding signs authorized in Section [13.09\(B\)](#) are permitted on any lot in the VOD and shall be subject to any standards applicable to freestanding signs in this resolution. The freestanding sign not exceed six feet in height with a maximum sign area of 48 square feet.²⁷ Such freestanding sign shall be constructed as a monument sign with a solid base or on two poles where the clearance between grade and the bottom of the sign face is no more than one foot.
- (2) All other signs authorized in [Article 13: Signage Standards](#) shall be allowed in the VOD as regulated by that article.

(I) Parking, Access, and Mobility

- (1) If a loading space is to be provided at the option of the property owner or developer, it shall comply with the design standards of Section [12.06: Off-Street Loading Requirements](#) but may only be located in the rear yard.
- (2) Parking areas shall be located in the side or rear yard to the maximum extent feasible.
- (3) All other parking and loading requirements shall be subject to the requirements of [Article 12: Parking, Loading, and Circulation Standards](#).
- (4) Cross-access easements to adjacent parcels shall be provided in order to achieve better circulation throughout the corridor and to minimize driveway cuts along public roads, unless waived by the Butler County Engineer. All cross-access easements shall comply any applicable county or state access management requirements. Shared maintenance agreements shall be filed with the Butler County Recorder.²⁸ To the maximum extent feasible, such cross-access easement shall be provided behind the principal building.
- (5) A four-foot concrete sidewalk shall be constructed for all portions of a parcel which adjoins a public street for new construction, or remodeling which exceeds 50 percent of the appraised value of the structure, and the parcel is within 1,000 feet of an existing public sidewalk. Sidewalks shall be constructed within the public right-of-way.

(J) Landscaping and Buffering²⁹

- (1) Parking areas in the VOD shall be screened from any public street with a continuous row of deciduous trees along the street, or an aluminum or wrought-iron fence³⁰ with a hedge between the fence and the street. This planting area shall be contained within a 10-foot-wide grass area that may also contain a sidewalk if required by another section of this resolution.

²⁷ Right now, the county allows 64 square foot signs with a maximum height of 4 feet. To actually have a full-size sign, the sign would be disproportionate at 4' high by 16' wide. We have increased the height allowed in the VOD but have mandated it be a monument sign and also reduced the maximum size given the character of the area. We will include graphics of a monument sign. The building sign regulations are pretty lenient given some basic calculations I did and there does not appear to be a need to alter any other sign regulations.

²⁸ This is more specific requirements for cross-access easement than Section 16.0512 of the Butler County resolution.

²⁹ We initially had architectural standards for multi-family dwellings in the draft VOD but we have eliminated them as there will be architectural standards for all new multi-family dwellings in Ross Township.

³⁰ We will include an image of an example of this type of screening.

- (2) A landscaped buffer shall be provided and maintained along all side and rear lot lines which are adjacent to any residential zoning district or recorded residential subdivision outside of the VOD. Where the parcel width is greater than 100 feet, the buffer shall be 20 feet wide and 8 feet high. Where the parcel width is 100 feet or less, the buffer shall be 10 feet wide and 6 feet high. Such buffer shall consist of a fence, decorative wall, 100 percent opaque vegetation, or a combination thereof to fully screen the principal use along the entire lot line.

(K) Additional Required Conditions³¹

- (1) The maximum building size on the ground floor shall be 10,000 square feet for any lot where the underlying base zoning district is a residential zoning district or a B-1 District.
- (2) The maximum building size on the ground floor shall be 50,000 square feet for any other lot in the VOD.
- (3) Buildings shall be oriented with the main entrance parallel to the street they front unless an alternate orientation is consistent with existing, adjacent development.
- (4) All business, service or processing and materials used as part of a nonresidential use shall be conducted and stored wholly within a completely enclosed building; except for the sale of automotive fuel, lubricants and fluids at service stations and except for off-street automobile parking and off-street loading.
- (5) To the maximum extent practical, all parking shall be located in the side or rear yard. In no case shall more than 10 percent of the parking be located in the front yard.
- (6) Process and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noises, vibration, refuse matter or water-carried waste.
- (7) Dumpsters and trash containers shall not be visible from any residentially zoned property, any residential subdivision or any parcel containing a dwelling other than a farm dwelling outside of the VOD. Where screening is required, all dumpsters and trash containers must be completely screened by a solid fence or wall no less than six feet or more than eight feet in height. All dumpsters and trash container enclosures shall be constructed of the same materials used on the majority of the principal structure. The side of the enclosure used for access shall have a minimum opening width of 10 feet. Such dumpsters and trash containers shall be located in the rear yard unless they are a size that is portable and is removed from the front yard after collection.
- (8) A site plan shall be submitted with any building permit application. The site plan shall contain a stormwater management plan, landscaping plan (if required), vehicle and pedestrian circulation plan, proposed signage, parking plan, trash receptacle location and screening.

³¹ Many of these are drawn from existing requirements for business zoning.