

## Chapter 13.18

**GROUNDWATER PROTECTION**

## Sections:

13.18.100	Purpose
13.18.110	Intent
13.18.120	Administration
13.18.130	Definitions
13.18.140	Establishment of Setback Zones
13.18.150	Applicability
13.18.160	Operating Permits and Permit Conditions
13.18.170	Groundwater Protection Overlay Zones
13.18.180	Minimum Setback Zone Regulations
13.18.190	Maximum Setback Zone Regulations
13.18.200	Five Year Capture Zone Regulations
13.18.210	Unauthorized Releases
13.18.220	Closure Permits and Permit Conditions
13.18.230	Civil Penalties/Penalties and Costs
13.18.240	Criminal Prosecution
13.18.250	Enforcement
13.18.260	Notice of Violation
13.18.270	Appeals
13.18.280	Severability
13.18.290	Inconsistency Repealed
13.18.300	Saving Clause

## Exhibits

1	Regulated Substances List
2	Illustration of the Delineated Groundwater Protection Area
3	“Best Management Practices” for the Construction Industry

**13.18.100 Purpose**

In the interest of securing the public health, safety and welfare, to preserve the quality and quantity of Groundwater resources in order to assure a safe and adequate water supply for the present and future generations, and to preserve Groundwater resources currently in use and those Aquifers having a potential for future use as a public water supply, the provisions of this Chapter shall apply to all properties located within the city of St. Charles. This Chapter establishes regulations for land uses within the Groundwater Protection Areas for: inspection and monitoring standards for new regulated substance facilities; uniform standards for release reporting; emergency response; substance management planning; permit procedures; and enforcement.

**13.18.110 Intent**

It is the intent of this Chapter to provide a method:

1. To protect the Groundwater resources of the city and the surrounding area.
2. To provide a means of regulating land uses within the Groundwater Protection Areas.
3. To protect the city’s drinking water supply and that of the surrounding area from potential impacts by facilities that store, handle, treat, use or produce substances that pose a hazard to Groundwater quality.

**13.18.120 Administration**

Except as otherwise provided herein, the Director of Public Works shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Director of Public Works may be delegated by the Director of Public Works to other city personnel.

**13.18.130 Definitions**

Except as stated in this Chapter, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Chapter shall be the same as those used in the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and the Illinois Groundwater Protection Act (415 ILCS 55/5 et seq.), as amended from time to time.

**Act** means the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.).

**Agency** means the Illinois Environmental Protection Agency.

**Aquifer** means saturated (with Groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs or streams under ordinary hydraulic gradients.

**Board** means the Illinois Pollution Control Board.

**City** means the city of St. Charles, Kane and DuPage Counties, Illinois.

**Containment Device** means a device that is designed to contain an Unauthorized Release, retain it for cleanup and prevent release materials from penetrating into the ground.

**Director of Public Works** means the Director of Public Works of the City, or his authorized deputy, agent or representative.

**Facility** means: any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or any Site or area where a hazardous substance has been deposited, stored, disposed of, or placed or otherwise come to be located.

**Groundwater** means underground water which occurs within the Saturated Zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.

**Groundwater Protection Area (“GWPA”)** means the portion of an Aquifer within the minimum Setback Zone, maximum Setback Zone, or 5-year capture zone of a Well or Well Field, as delineated in Exhibit 2 of this Chapter.

**Groundwater Protection Area Permit** means an authorization by the City for a person to store, handle, use or produce a regulated substance within a GWPA.

**Groundwater Protection Overlay Zones** are zones of the GWPA designated to provide differential levels of protection. Each GWPA is subdivided into three Groundwater Protection Overlay Zones as described below and as illustrated in Exhibit 2.

**Zone 1: Minimum Setback Zone** - The geographic area located between a Well or Well Field providing Potable Water to a Community water supply and a radial area of 400 feet (122 meters).

**Zone 2: Maximum Setback Zone** - The geographic area located between a Well or Well Field providing Potable Water to a community water supply and a regular or irregularly shaped area not to exceed 1,000 feet (305 meters) from the Wellhead, but excluding the Minimum Setback Zone.

**Zone 3: 5-Year Capture Zone** - The geographic area located between a Well or Well Field providing Potable Water to a community water supply and the delineated 5-year zone of capture but excluding zones 1 and 2.

**New Potential Primary Source** means:

a Potential Primary Source which is not in existence or for which construction has not commenced at its location as of August 18, 1997; or

a Potential Primary Source which expands laterally beyond the currently permitted boundary, or if the primary source is not permitted, the boundary in existence as of August 18, 1997; or

a Potential Primary Source which is part of a Facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new Facility.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the Site has been initiated and proceeds in a reasonably continuous manner to completion.

**New Potential Route** means:

a Potential Route which is not in existence or for which construction has not commenced at its location as of August 18, 1997; or

a Potential Route which expands laterally beyond the currently permitted boundary or, if the Potential Route is not permitted the boundary in existence as of August 18, 1997.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the Site has been initiated and proceeds in a reasonably continuous manner to completion.

**New Potential Secondary Source** means:

a Potential Secondary Source which is not in existence or for which construction has not commenced at its location as of August 18, 1997; or

a Potential Secondary Source which expands, laterally beyond the currently permitted boundary or, if the Secondary Source is not permitted, the boundary in existence as of August 18, 1997, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

a Potential Secondary Source which is a part of a Facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed cost of a comparable entirely new Facility.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the Site has been initiated and proceeds in a reasonably continuous manner to completion.

**Operator** means any person in control of, or having responsibility for daily operation of a Facility.

## GROUNDWATER PROTECTION

**Owner** means any person who owns a Site, Facility or Unit or part of a Site, Facility or Unit, or who owns the land on which the Site, Facility or Unit is located.

**Person** means any person, individual, public or private corporation, firm, association, joint venture, trust, partnership, municipality, governmental agency, political subdivision, public officer, Owner, lessee, tenants, or any other entity whatsoever or any combination of such, jointly or severally, including Limited Liability Companies and Limited Partnerships.

**Potable Water** means water that is satisfactory for drinking, culinary and domestic purposes meeting currently accepted water supply practices and principals.

**Potential Primary Source** means any Unit at a Facility or Site not currently subject to a removal or remedial action which:

is utilized for the treatment, storage or disposal of any hazardous or special waste not generated at the Site; or

is utilized for the disposal of municipal waste not generated at the Site, other than landscape waste and construction and demolition debris; or

is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the Site or at other Sites owned, controlled or operated by the same person; or

stores or accumulates at any time more than 75,000 pounds (34,020 kilograms) above ground, or more than 7,500 pounds (3,402 kilograms) below ground, of any hazardous substances.

**Potential Route** means abandoned and improperly plugged Wells of all kinds, drainage Wells, all injection Wells, including closed loop heat pump Wells, and any excavation for the discovery, development or production of stone, sand or gravel.

**Potential Secondary Source** means any Unit at a Facility or a Site not currently subject to a removal or remedial action, other than a Potential Primary Source which:

is utilized for the landfilling, land treating or surface impounding of waste that is generated on the Site or at other Sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

stores or accumulates at any time more than 25,000 pounds (11,340 kilograms) but not more than 75,000 pounds (34,020 kilograms) above ground, or more than 2,500 pounds (1,134 kilograms) but not more than 7,500 pounds (3,402 kilograms) below ground, of any hazardous substances; or

stores or accumulates at any time more than 24,000 gallons (94,633 liters) above ground, or more than 500 gallons (1,893 liters) below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or

stores or accumulates at any one time more than 50,000 pounds (22,680 kilograms) of any de-icing agent; or

is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. (225 ILCS 225/1 et seq.), as amended.

**Recharge Area** means the area through which precipitation and surface water can enter an Aquifer.

**Regulated Substances** means those substances found in Exhibit 1, attached hereto and incorporated herein.

**Saturated Zone** means the zone in which the voids in the rock or soil are filled with water at a pressure greater than atmospheric pressure.

**Setback Zone** means a geographic area designated pursuant to the Act and this Chapter, containing a Potable Water Supply Well or a potential source or Potential Route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect Groundwaters.

**Site** means any location, place, tract of land, or facilities, including but not limited to buildings, and improvements used for purposes subject to regulations or control by the Act or regulations thereunder.

**Unauthorized Release** means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance in a quantity greater than 1 gallon (8 pounds) from a Facility into a containment system, into the air, into Groundwater, surface water, surface soils or subsurface soils. Unauthorized Release does not include: intentional withdrawals of Regulated Substances for the purpose of legitimate sale, use or disposal; and discharges permitted under federal, state or local law.

**Underlying Permit** includes the Building Permits, Sewer Tap Agreements, Stormwater Retention Permits, Occupancy Permits, Preliminary Plat and Final Plat (required by Title 16 of the City Municipal Code) and any other applicable approval or permit required by the city in relation to the Facility.

**Unit** means any device, mechanism, equipment or area (exclusive of land utilized only for agricultural production).

**Well** means any excavation that is drilled, cored, bored, driven, dug, fitted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of Groundwater.

**Well Field** means an area which contains one or more Wells for obtaining a Potable Water supply.

**Well Number** means a Well Number owned and operated by the city as depicted on Exhibit 2.

#### **13.18.140 Establishment of Setback Zones**

- A. Minimum Setback Zones are hereby established as set forth in Exhibit 2, as that area within a 400 feet (122 meters) radius of each existing or permitted community water supply Well within the City or within 400 feet (122 meters) of the City limits of the City.
- B. Maximum Setback Zones are hereby established as set forth in Exhibit 2, as that area within regular or irregularly shaped 1,000 feet (305 meters) radius of each existing or permitted community water supply Well within the City, or within 1,000 feet (305 meters) of the City limits of the City.
- C. 5-Year Capture Zones are hereby established as set forth in Exhibit 2, which incorporates and adopts the Recharge Areas identified by the Groundwater Protection Needs Assessment dated November, 1992, performed for the City pursuant to Section 17.1 of the Act.

#### **13.18.150 Applicability**

## GROUNDWATER PROTECTION

- A. Persons who own and/or operate one or more facilities in a Groundwater Protection Area (GWPA) shall comply with this Chapter. This obligation shall be joint and several.
- B. All facilities within a Groundwater Protection Area must comply with this Chapter prior to issuance of any Underlying Permits.
- C. If the Director of Public Works determines that a Facility, otherwise exempt from the permit requirements of this Chapter, has a potential to degrade Groundwater quality, then the Director of Public Works may classify that Facility as a New Potential Primary Source, a Potential Route, or Potential Secondary Source, and require that Facility to comply with this Chapter accordingly. Such determination shall be based upon Site-specific data and shall be eligible for appeal pursuant to Section 13.18.280 of this Chapter.
- D. The following are exempt from the permit requirements of this Chapter:
  - 1. The storage and handling of Regulated Substances for resale in their original unopened containers of five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) or less shall be exempt from the permit requirements of this Chapter.
  - 2. De Minimus Usage of Regulated Substances: Facilities that use, store, or handle Regulated Substances in quantities of five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) or less of any one regulated substance, and in aggregate quantities of twenty (20) gallons (76 liters) or one hundred (100) pounds (45 kilograms) or less of all Regulated Substances, shall be exempt from the permit requirement of this Chapter.
  - 3. Single family residences provided that no home business is operated on the premises.
  - 4. Public interest emergency use and storage of Regulated Substances.
  - 5. Regulated substances used by or for the City in wastewater treatment processes.
  - 6. Fueling of equipment not licensed for street use, provided that such fueling activities are conducted in a containment area that is designed and maintained to prevent leakage or other violations of this Chapter.
- E. The following are exempt from this Chapter:
  - 1. Fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the operation of that vehicle.
  - 2. Existing heating systems using fuel oil.
  - 3. The activities of construction, repairing or maintaining any Facility or improvement on lands within Zones 1, 2, or 3 provided that all contractors, subcontractors, laborers, material men and their employees when using, handling, storing or producing Regulated Substances in Zones 1, 2, or 3 use those applicable "Best Management Practices" set forth in Exhibit 3, attached hereto and incorporated herein.
  - 4. Cleanups, monitoring and/or studies undertaken under supervision of the Agency or other state regulatory Agency or the United States Environmental Protection Agency.
  - 5. Activities specifically regulated under 34 Ill. Adm. Code 601.615, 616, and 617 (Regulations for existing and new activities within Setback Zones and regulated Recharge Areas); 8 Ill. Adm. Code 255 and 256 (Regulations for secondary containment for agricultural pesticide fertilizer facilities); and 8 Ill. Adm. Code 257 (cooperative Groundwater protection program for agricultural chemical facilities within appropriate Setback Zones).
  - 6. If the Owner of a New Potential Primary Source, New Potential Secondary Source, or New Potential Route is granted an Exception by the Board (other than land filling or land treating) pursuant to the Act, such Owner shall not be subject to this Chapter to the same extent that such Owner is not subject to the Act.
  - 7. If the Owner of a New Potential Primary Source, New Potential Secondary Source, or New Potential Route is issued a Certificate of Minimal Hazard by the Agency

pursuant to the Act, such Owner shall not be subject to this Chapter to the same extent that such Owner is not subject to the Act.

- F. Any action by the Agency or Board referred to this section shall not be final and binding on the City under this Chapter until the City has received notice of such proposed action and has had reasonable opportunity to present evidence concerning its interest.

### **13.18.160 Operating Permits and Permit Conditions**

#### **A. General Conditions**

1. No person, persons, corporation, or other legal entities shall install or operate a Facility in a GWPA without first obtaining a Groundwater Protection Operating Permit from the Director of Public Works.
2. The focus of review for all permits shall be on the substances that will be stored, handled, treated, used or produced and the potential for these substances to degrade Groundwater quality.
3. All permits required pursuant to this Chapter must be issued prior to or concurrent with the issuance of permits for construction activities or Underlying Permits.
4. The Director of Public Works shall not issue an Operating Permit for a Facility unless adequate plans, specifications, test data, and/or other appropriate information has been submitted by the Owner and/or Operator showing that the proposed design and construction of the Facility meets the intent and provisions of this Chapter and will not impact the short term, long term or cumulative quantity or quality of Groundwater.
5. The application for Operating Permits pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of two hundred dollars (\$200). The annual renewal fee shall be twenty-five dollars (\$25) and shall accompany the annual certification statement.
6. Any person who owns or operates more than one Facility in a single zone of the (GWPA) shall have the option of obtaining one permit for all operations if the operations at each Facility are similar and the permit requirements under this Chapter are applicable to each Facility individually.
7. An Operating Permit, issued by the Director of Public Works shall be effective for 1 year. The Director of Public Works shall not issue a permit to operate a Facility until the Director of Public Works determined that the Facility complies with the provisions of this Chapter.
8. The Facility Owner shall apply to the City for permit renewal at least 60 days prior to the expiration of the permit. If an inspection of the Facility reveals noncompliance, then the Director of Public Works must verify by a follow-up inspection that all required corrections have been implemented before renewing the permit.
9. Operating Permits may be transferred to a new Facility Owner/Operator if the new Facility Owner/Operator does not change any conditions of the permit, the transfer is registered with the City within 30 days of the change in ownership, and any necessary modifications are made to the information in the initial permit application due to the change in ownership.
10. Within 30 days of receiving an inspection from the City, the Operating Permit holder shall file with the City a plan and time schedule to implement any required modifications to the Facility or to the monitoring plan needed to achieve compliance with the intent of this Chapter or the permit conditions. This plan and time schedule shall also implement all of the recommendations of the Director of Public Works.

#### **B. Permit Applications**

1. The Operating Permit application shall include at a minimum:

## GROUNDWATER PROTECTION

- a. Name, address, and phone number of Owner/Operator.
  - b. Property address, legal description and tax identification number of the Facility.
  - c. The names and volumes of all Regulated Substances which are stored, handled, treated, used, or produced at the Facility being permitted in quantities greater than the de minimis amounts specified in Section 13.18.150 of this Chapter. Copies of all leases pertaining to the Facility.
  - d. A detailed description of the activities conducted at the Facility that involve the storage, handling, treatment, use or production of Regulated Substances in quantities greater than the de minimis amounts specified in Section 13.18.150 of this Chapter.
  - e. A description of the Containment Devices used to comply with the requirements of this Chapter.
  - f. A Regulated Substances Management Plan for the Facility.
  - g. A description of the procedures for inspection and maintenance of Containment Devices.
  - h. A description of the method for disposal of Regulated Substances.
  - i. 10 copies of a Site plan showing the location of the Facility and its property boundaries and the locations where Regulated Substances in containers larger than five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) in size are stored, handled, treated, used, produced, the location of each Containment Device.
- C. Conditions For GWPA Permits Issued to New Facilities
1. Containment Devices
    - a. The Owner/Operator of a Facility must provide Containment Devices adequate in size to contain on-site any Unauthorized Release of Regulated Substances from any area where these substances are either stored, handled, treated, used, or produced. Containment Devices shall prevent Regulated Substances from penetrating into the ground. Design requirements for Containment Devices include:
      - i. The Containment Device shall be large enough to contain 110% of the volume of the container in cases where a single container is used to store, handle, treat, use, or produce a regulated substance. In cases where multiple containers are used, the Containment Device shall be large enough to contain 150% of the volume of the largest container or 10% of the aggregate volume of all containers, whichever is greater.
      - ii. All Containment Devices shall be constructed of materials of sufficient thickness, density, and composition to prevent structural weakening of the Containment Device as a result of contact with any regulated substance. If coatings are used to provide chemical resistance for Containment Devices, they shall also be resistant to the expected abrasion and impact conditions. Containment Devices shall be capable of containing any Unauthorized Release for at least the maximum anticipated period sufficient to allow detection and removal of the release.
      - iii. If the Containment Device is open to rainfall, then it shall be able to accommodate the volume of precipitation that could enter the Containment Device during a 24-hour, 100-year storm, in addition to the volume of the regulated substance storage required in Subsection 1(a) above.

## GROUNDWATER PROTECTION

- iv. Containment Devices shall be constructed so that a collection system can be installed to accumulate, temporarily store, permit detection of the presence of, and permit removal of any storm runoff or regulated substance.
  - v. Containment Devices shall include monitoring procedures or technology capable of detecting the presence of a regulated substance within 24 hours following a release.
- D. Regulated Substances Management Plan
- 1. Regulated Substances Management Plan indicating procedures to be followed to prevent, control, collect, and dispose of any Unauthorized Release of a regulated substance shall be required as a condition of each Operating Permit. If a spill prevention control plan or similar contingency plan has been prepared in accordance with Illinois or United States Environmental Protection Agency requirements, a Regulated Substance Management Plan is not required as long as all of the Regulated Substances are included in the spill prevention control plan.
  - 2. The Regulated Substances Management Plan shall include:
    - a. Provisions to address the Regulated Substances monitoring requirements.
    - b. Provisions to train employees in the prevention, identification, reporting, control, disposal, and documentation of any Unauthorized Release of a regulated substance.
    - c. The Owners or Operators of all new facilities shall implement Regulated Substances monitoring as part of the Regulated Substances Management Plan required by Subsection 13.18.160 4.b.iv of this Chapter. Visual monitoring must be implemented unless it is determined by the Fire Department to be infeasible.
    - d. All regulated substance monitoring activities shall include the following:
      - i. A written routine monitoring procedure which includes, when applicable: the frequency of performing the monitoring method, the methods and equipment to be used for performing the monitoring, the location(s) from which the monitoring will be performed, the name(s) or title(s) of the person(s) responsible for performing the monitoring and/or maintaining the equipment, and the reporting format.
      - ii. Written records of all monitoring performed shall be maintained on-site by the Operator for a period of 3 years from the date the monitoring was performed. The City may require the submittal of all the monitoring records or a summary at a frequency that the City may establish. The written records of all monitoring performed in the past 3 years shall be shown to the City upon demand during any Site inspection.
- Monitoring records shall include but not be limited to:
- iii. Name of person performing the monitoring or sampling;
    - 1) The date and time of all monitoring or sampling;
    - 2) Monitoring equipment calibration and maintenance records;
    - 3) The results of any visual observations;
    - 4) The logs of all readings of gauges or other monitoring equipment, or other test results; and
- The results of inventory readings and reconciliations.
- e. Procedures for the in-house inspection and maintenance of Containment Devices and areas where Regulated Substances are stored, handled, treated, used, and produced shall be identified in the Operating permit for each Facility. Such procedures shall be in writing, and a log shall be kept of all

## GROUNDWATER PROTECTION

inspection and maintenance activities. Such logs shall be submitted to the Director of Public Works with the renewal applications and shall be available for inspection at other times upon 48 hours notice. Inspection and maintenance logs shall be maintained on-site by the Owner or Operator for a period of at least 3 years from the date the monitoring was performed.

- E. Reporting
  - 1. The permittee shall report to the Director of Public Works 15 days after any changes in a Facility including:
    - a. The storage, handling, treatment, use, or processing of new Regulated Substances;
    - b. Changes in monitoring procedures; or
    - c. The replacement or repair of any part of a Facility that is related to the regulated substance(s).

### **13.18.170 Groundwater Protection Overlay Zones**

- A. The location of Groundwater Protection Areas in the City are defined in Exhibit 2 to this Chapter. Groundwater Protection Area maps shall be placed on file with Planning, Building & Zoning, Public Works Departments and the St. Charles Fire Department.
- B. In determining the location of facilities within the zones defined by Exhibit 2, the following shall apply.
  - 1. Facilities located wholly within a GWPA zone shall be governed by the restriction applicable to that zone.
  - 2. Facilities having parts lying within more than one zone of a GWPA shall be governed by the restrictions applicable to the more restrictive zone.
  - 3. Facilities having parts lying both in and out of a GWPA shall be governed by the restrictions applicable to the more restrictive zone.

### **13.18.180 Regulations Which Apply Within the Minimum Setback Zone (Zone 1) of the GWPA**

- A. Prohibited Uses And Activities
  - 1. Except as provided in Section 13.18.150, no person shall place a New Potential Primary Source, New Potential Secondary Source, or New Potential Route within the minimum Setback Zone(s) of any existing or permitted community water supply Well in the City or within 400 feet (122 meters) of the City limits of the City.
  - 2. Except as provided in Section 13.18.150, no person shall alter or change an existing Potential Primary Source, Potential Secondary Source, or Potential Route where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route.
  - 3. No person shall conduct any activity or engage in a use of property which shall constitute an interference with the health and safety or welfare of a community water supply Well. Such activities are declared to be a public nuisance and are prohibited by this Chapter.
- B. Review And Approval Of Proposed Activities
  - 1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the minimum Setback Zone (Zone 1) must be reviewed by the Director of Public Works for compliance with this Chapter including obtaining a Groundwater Protection Permit pursuant to this Chapter, prior to issuance of any Underlying Permit.
  - 2. No Groundwater operating permit shall be issued unless a finding is made by the Director of Public Works that the proposal will to impact the long term, short term or cumulative quality of the Aquifer. The findings shall be based on the present or past

land use activities conducted at the Facility; Regulated Substances stored, handled, treated, used or produced; and the potential for the activities or Regulated Substances to degrade Groundwater quality.

3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

**13.18.190 Regulations Which Apply Within the Maximum Setback Zone (Zone 2) of the GWPA**

- A. Prohibited Uses And Activities
  1. Except as provided in Section 13.18.150, no person shall place a New Potential Primary Source within the maximum Setback Zone(s) of any existing or permitted community water supply Well in the City or within 1000 feet (305 meters) of the City limits of the City.
  2. Except as provided in Section 13.18.150, no person shall alter or change an existing Potential Primary Source where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route.
  3. No person shall conduct any activity or engage in a use of property which shall constitute an interference with the health and safety or welfare of a community water supply Well or other water Well by the accidental, negligent, or intentional introduction of contaminants. Such activities are declared to be a public nuisance and are prohibited by this Chapter.
- B. Review And Approval Of Proposed Activities
  1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the maximum Setback Zone (Zone 2) must be reviewed by the Director of Public Works for compliance with this Chapter including obtaining a Groundwater Protection Permit pursuant to this Chapter, prior to issuance of any Underlying Permit.
  2. No Groundwater operating permit shall be issued unless a finding is made by the Director of Public Works that the proposal will not impact the long term, short term or cumulative quality of the Aquifer. The finding shall be based on the present or past land use activities conducted at the Facility; Regulated Substances stored, handled, treated, used or produced; and the potential for the activities or Regulated Substances to degrade Groundwater quality.
  3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

**13.18.200 Regulations Which Apply Within the 5-Year Capture Zone (Zone 3) of the GWPA**

- A. Review And Approval Of Proposed Activities
  1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the maximum Setback Zone (Zone 3) must be reviewed by the Director of Public Works for compliance with this Chapter including obtaining a Groundwater Protection Permit pursuant to this Chapter, prior to issuance of any Underlying Permit.
  2. No Groundwater operating permit shall be issued unless a finding is made by the Director of Public Works that the proposal will not impact the long term, short term or cumulative quality of the Aquifer. The finding shall be based on the present or past land use activities conducted at the Facility; Regulated Substances stored,

- handled, treated, used or produced; and the potential for the activities or Regulated Substances to degrade Groundwater quality.
3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

### **13.18.210 Unauthorized Releases**

All Unauthorized Releases shall be reported to the Director of Public Works according to the provisions of this section. All Unauthorized Releases shall be recorded in the Owner's inspection and maintenance log. An authorized release is an "unauthorized release requiring recording" if the release is completely captured by the Containment Device. If the Containment Device fails to contain the entire release, the release is an "unauthorized release requiring reporting."

- A. Unauthorized Releases Requiring Recording
  1. Unauthorized releases requiring recording shall be reported to the Director of Public Works within 24 hours after the release has been, or should have been detected.
  2. The incident report shall be accompanied by a written record including the following information:
    - a. The type, quantities, and concentration of Regulated Substances released.
    - b. Method of cleanup.
    - c. Method and location of disposal of the released Regulated Substances including whether a hazardous waste manifest(s) is used.
    - d. Method of future release prevention or repair. If this involves a change in operation, monitoring, or management, the Owner must apply for a new Operating Permit.
    - e. Facility Operator's name and telephone number.
  3. The Director of Public Works shall review the information submitted pursuant to the report of an Unauthorized Release requiring recording, shall review the Operating Permit, and may inspect the Facility. The Director of Public Works shall either find that the containment standards of this Chapter can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.
- B. Unauthorized Releases Requiring Reporting
  1. Unauthorized releases requiring reporting shall be verbally reported to the Director of Public Works immediately.
  2. A written report shall be submitted within 48 hours containing the following information that is known at the time of filing the report:
    - a. List of type, quantity, and concentration of Regulated Substances released.
    - b. The results of all investigations completed at that time to determine the extent of soil or Groundwater or surface water contamination because of the release.
    - c. Method of cleanup implemented to date, proposed cleanup actions and approximate cost of actions taken to date.
    - d. Method and location of disposal of the released regulated substance and any contaminated soils, Groundwater, or surface water.
    - e. Proposed method of repair or replacement of the Containment Device.
    - f. Facility Owner's name and telephone number.
    - g. Facility Operator's name and telephone number.
  3. Until cleanup is complete, the Owner shall submit reports containing the information required by Section 13.18.160(2). to the Director of Public Works every month or at a more frequent interval specified by the Director of Public Works.

## GROUNDWATER PROTECTION

4. The Director of Public Works shall either find that the containment objectives of this Chapter can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.
5. Upon confirmation of an Unauthorized Release to Groundwater, the Owner shall be responsible for immediately accomplishing the following:
  - a. Locate and determine the source of the Unauthorized Release of the regulated substance(s).
  - b. Stop and prevent any further Unauthorized Release(s).
  - c. Comply with the requirements for an Unauthorized Release(s) reporting.
6. No new regulated substance(s) may be introduced at the Site of the regulated substance(s) that caused the violation.
7. If an Unauthorized Release creates or is expected to create an emergency situation with respect to the drinking water supply of the City or a public water supply Well within 1000 feet (305 meters) of the City, and if the Facility Owner fails to address the Unauthorized Release within 24 hours of the occurrence, the City or its authorized agents shall have the authority to implement removal or remedial actions. Such actions may include, but not be limited to, the prevention of further Groundwater contamination: installation of Groundwater monitoring Wells; collection and laboratory testing of water, soil, and waste samples; and cleanup and disposal of Regulated Substances. The Facility Owner and Operator jointly and severally shall be responsible for any costs incurred by the City or its authorized agents in the conduct of such remedial actions, including but not limited to all consultant, engineering and attorney fees.
8. Reporting a release to the Director of Public Works does not exempt or preempt any other reporting requirements under federal, state, or local laws.

### **13.18.220 Closure Permits and Permit Conditions**

- A. No person shall close or cause to be closed a Facility regulated pursuant to his Chapter without first obtaining a Closure Permit from the Director of Public Works. Director of Public Works shall not issue a permit to temporarily or permanently close a Facility unless adequate plans and specifications and other appropriate information have been submitted by the applicant showing that the proposed closure meets the intent and provisions of this Chapter.
- B. Closure Permits shall be required for all facilities that cease to store, handle, treat, use, or produce Regulated Substances for a period of more than 365 days or when the Owner has no intent within the next year to store, handle, treat, use, or produce Regulated Substances. During the period of time between cessation of regulated substance storage, handling, treatment, use, or production, and actual completion of Facility closure, the applicable containment and monitoring requirements of this Chapter shall continue to apply.
- C. Prior to closure, the Facility Owner shall submit to the Director of Public Works a proposal describing how the Owner intends to comply with closure requirements. Owners proposing to close a Facility shall comply with the following requirements:
  1. Regulated substances shall be removed from the Facility, including residual liquids, solids, or sludges to levels specified by the Agency.
  2. When a Containment Device is to be disposed of, the Owner must document to the Director of Public Works that disposal has been completed in compliance with the Act.
  3. An Owner of a Containment Device or any part of a Containment Device that is destined for reuse as scrap material shall identify this reuse to the City.

## GROUNDWATER PROTECTION

- D. The Owner of a Facility being closed shall demonstrate to the satisfaction of the Director of Public Works that no detectable Unauthorized Release has occurred or that all Unauthorized Releases have been cleaned up. This demonstration can be based on the ongoing leak detection monitoring or soils sampling performed during or immediately after closure activities.
- E. If an Unauthorized Release is determined to have occurred, the Facility Owner shall comply with Section 13.18.210 of this Chapter.
- F. Facility closure will be accepted as complete by the Director of Public Works upon implementation of the Closure Permit conditions and compliance with all other provisions of this Chapter.
- G. No person shall temporarily or permanently abandon a Facility in an GWPA without complying with the requirements of this Chapter.
- H. The application for a Closure Permit pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of two hundred dollars (\$200).
- I. Any person who owns or operates more than one Facility in a single zone of the (GWPA) shall have the option of obtaining one permit for all simultaneous closures if the operations at each Facility are similar and the permit requirements under this Chapter are applicable to each Facility individually.

### **13.18.230 Civil Penalties/Penalties and Costs**

- A. Any person who is found to have violated an order of the City Council or who has failed to comply with any provisions of this Chapter, any rules and regulations, permits or orders issued hereunder, shall be fined in an amount of not more than one thousand dollars (\$1000.00). For the purpose of this Section, each day in which any such violation shall occur or continue, shall be deemed a separate violation. In addition to the penalties provided in this Chapter, the City may recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation by appropriate suit against the person found to have violated this Chapter or the rules, regulations, permits or orders issued hereunder.
- B. In addition to any fines and penalties set forth above, the Owner or Operator shall reimburse the City, for all costs incurred as a result of responding to, containing, cleaning up, or monitoring the cleaning up and disposal of any spilled or leaked regulated substance including but not limited to consultant, engineering and legal fees.

### **13.18.240 Criminal Prosecution**

- A. A person who willfully or negligently violates any provision of this Chapter, any rules or regulations, permits or orders issued hereunder, shall upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1000.00) per violation, or imprisonment for not more than six (6) months, or both. Each day on which a violation occurs or continues shall be deemed a separate violation.
- B. A person who knowingly makes any false statements, representations or certification in any application, record, report, plan or other documentation filed, or required to be maintained pursuant to this Chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1000.00) per violation, or imprisonment for not more than six (6) months, or both.
- C. In the event of a second conviction, a person shall be punished by a fine of not more than one thousand dollars (\$1000.00) per violation, or imprisonment of not more than six (6) months, or both. Each day on which a violation occurs or continues shall be deemed a separate violation.

### **13.18.250 Enforcement**

## GROUNDWATER PROTECTION

- A. The City shall be the administering Agency and shall have the power and authority to administer and enforce the provisions of this Chapter. The City shall have the right to conduct inspections of facilities at reasonable times to determine compliance with this Chapter.
- B. The Director of Public Works may revoke any permit issued pursuant to this Chapter after notice to the permittee and after affording the permittee an opportunity to meet either in person or by telephone if it finds that the permit holder:
  - 1. Has failed or refused to comply with any provision of this Chapter;
  - 2. Has submitted false or inaccurate information in a permit application;
  - 3. Has refused lawful inspection.
  - 4. Has an Unauthorized Release and the Director of Public Works finds that the containment standards of this Chapter cannot continue to be achieved.

### **13.18.260 Notice of Violation**

- A. Whenever it is determined that there is a violation of this Chapter, the notice of violation issued shall:
  - 1. Be in writing and delivered to the Owner or Operator by regular mail; and
  - 2. Be dated and signed by the authorized City agent making the inspection; and
  - 3. Specify the violation or violations; and
  - 4. Specify the length of time (not less than 72 hours) to correct the violation after receiving the notice of violation.

### **13.18.270 Appeals**

- A. Any decision by the Director of Public Works under this Chapter may be appealed to the City Council.
- B. The City Council shall also hear petitions to grant an exemption to a Facility from the requirements of Section 13.18.160 of this Chapter as follows:

## GROUNDWATER PROTECTION

1. The applicant may demonstrate that the 5-year capture zone area(s) map incorrectly identify the Facility as being within the Groundwater Protection Overlay Zone(s). The burden of proof shall rest upon the applicant to demonstrate that the Facility location is not within a delineated 5-year capture zone area. The applicant shall be required to present detailed hydrogeologic and hydrologic information to the City Council that the Facility location is, in fact, not within a 5-year capture zone area.
2. The applicant may be required to present detailed technical information that a material(s) on the Regulated Substances List does not endanger the GWPA in the event of an Unauthorized Release. To continue the permit appeal process, the applicant shall provide funds to the City to pay for the technical review by the City's choice of consultant(s) of said hydrogeologic and hydrologic information and/or regulated substance information and shall base its recommendation, in part, on the report by said consultant(s).
3. Appeals to the City Council take place by filing an appeal in writing with the City Clerk of the City within 14 days after receipt of a decision in writing from the Director of Public Works. Petitions to the City Council seeking an exemption for a Facility should also be filed with the City Clerk of the City. A hearing with the City Council will be held within 90 days of submission of the appeal or petition. A decision by the Groundwater Appeals Committee will be made in writing within 30 days of the hearing.

### **13.18.280 Severability**

If any section, subdivision, paragraph, sentence, clause or phrase in this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the City Council that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not then been included.

### **13.18.290 Inconsistency Ordinances Repealed**

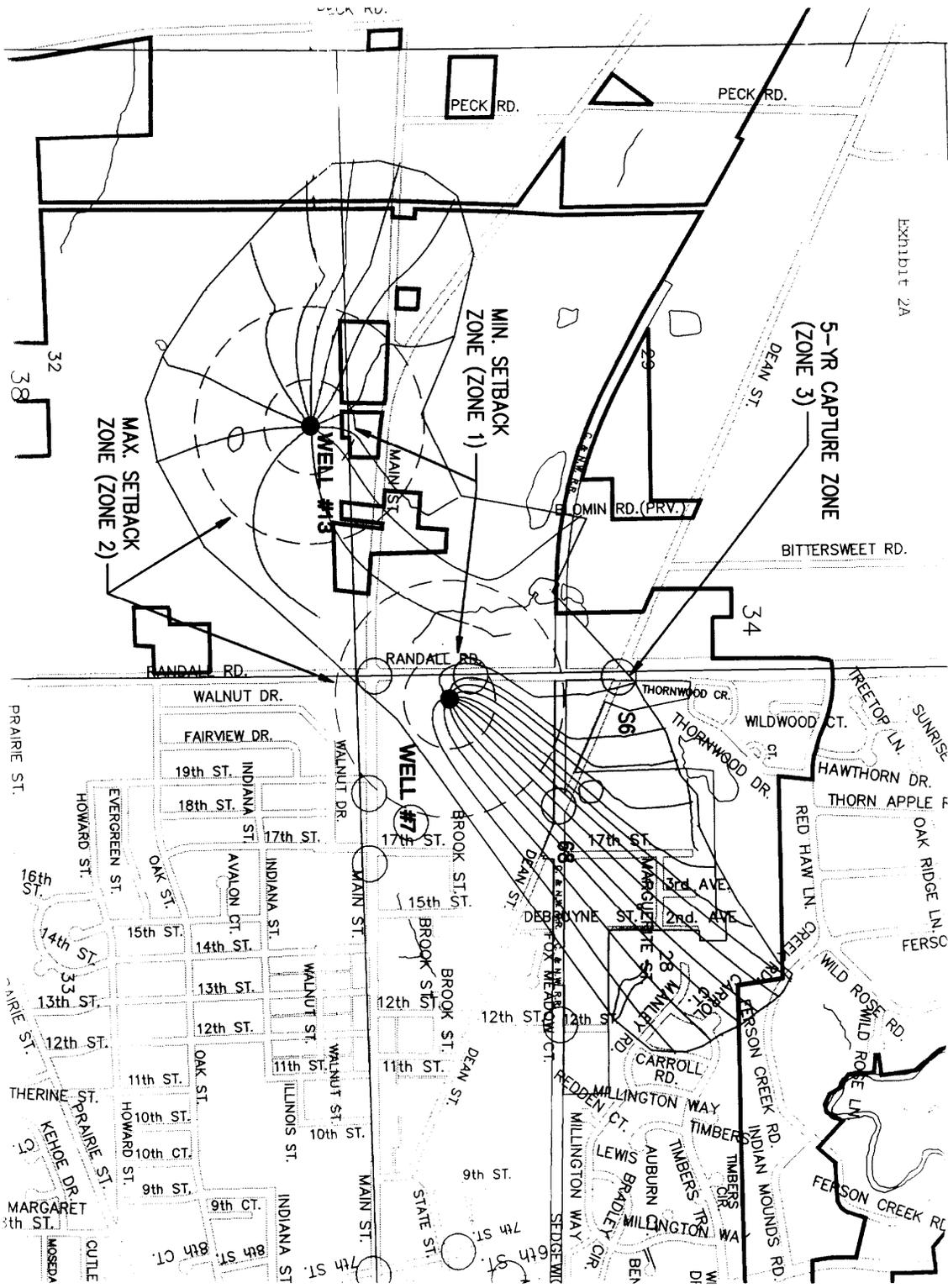
All other Chapters or parts of Chapters in conflict herewith are hereby repealed.

### **13.18.300 Saving Clause**

Nothing in this Chapter hereby adopted shall be construed to affect any suit or proceeding pending in any Court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any Act or ordinance hereby repealed as cited in Section 13.18.290 of this Chapter.

**EXHIBIT 1**  
**REGULATED SUBSTANCES LIST**

Acid and basic cleaning solutions	PCB's
Antifreeze and Coolants	Plastic resins, plasticizers and catalysts
Arsenic and arsenic compounds	Photo development chemicals
Bleaches, Peroxides	Poisons
Brake and transmission fluids	Polishes
Brine solution	Pool chemicals in concentrated form
Casting & Foundry chemicals	Processed dust and particulates
Caulking agents and sealants	Radioactive sources
Cleaning solvents	Reagents and standards
Corrosion and rust prevention solutions	Refrigerants
Cutting fluids	Roofing chemicals and sealers
Degreasing solvents	Sanitizers, disinfectants, bactericides and algaeicides
Disinfectants	Soaps, detergents and surfactants
Electroplating solutions	Solders and fluxes
Explosives	Stripping compounds
Fire extinguishing chemicals	Tanning industry chemicals
Food processing wastes	Transformer and capacitor oils/fluids
Formaldehyde	Water and wastewater treatment chemicals
Fuels and additives	
Gasolines	
Glues, adhesives and resins	
Greases	
Hydraulic fluid	
Indicators	
Industrial and commercial janitorial supplies	
Industrial sludges and stillbottoms	
Inks, printing and photocopying chemicals	
Laboratory chemicals	
Liquid storage batteries	
Medical, pharmaceutical, dental, veterinary and hospital solutions	
Mercury and mercury compounds	
Metals finishing solutions	
Oils	
Paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds	
Painting solvents	



(Ord. 1997-M-101 § 1.)

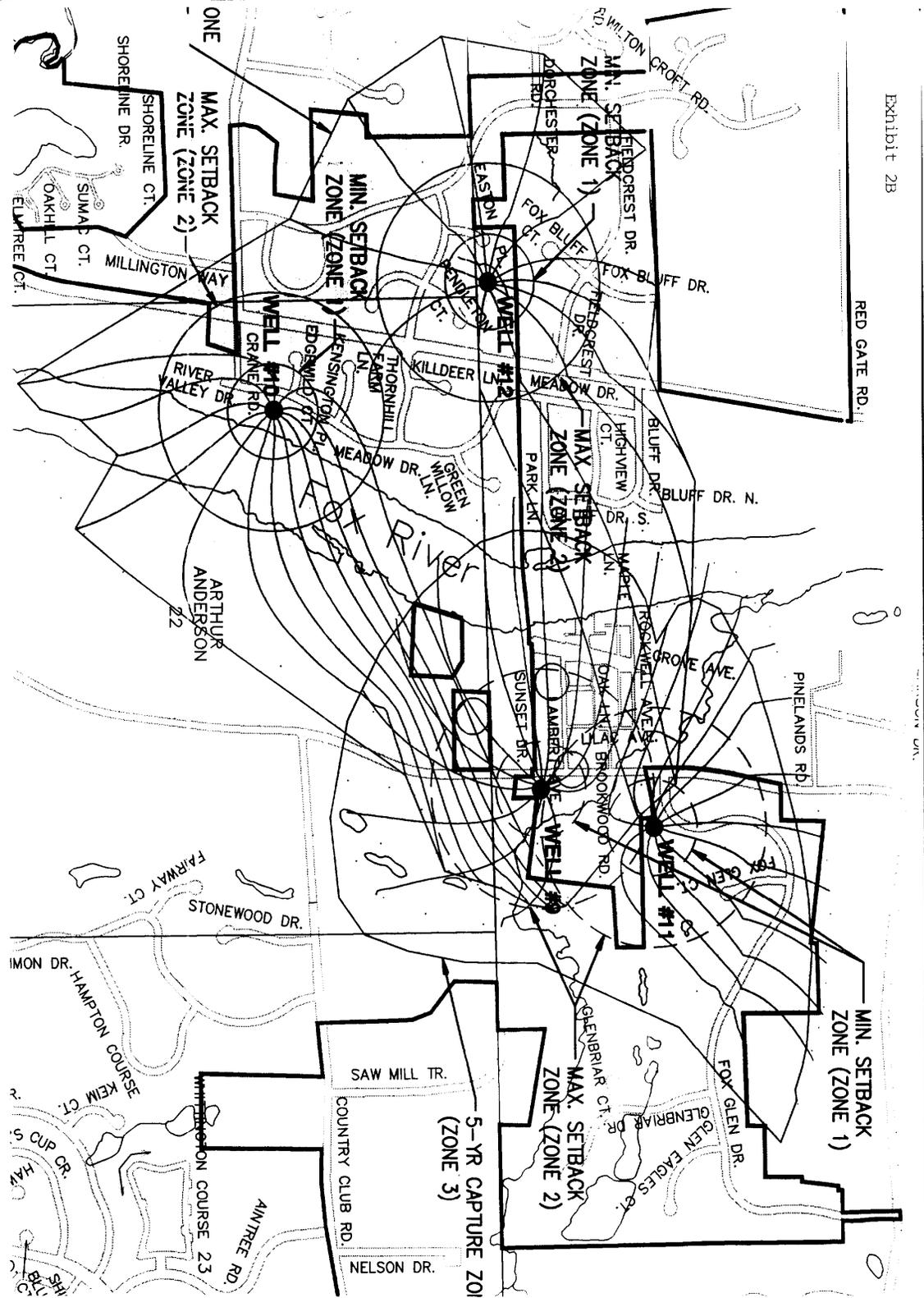


Exhibit 2B

(Ord. 1997-M-101 § 1.)

**EXHIBIT 3**

**"BEST MANAGEMENT PRACTICES" FOR THE CONSTRUCTION  
INDUSTRY**

- A) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any Regulated Substances. For instance, handling Regulated Substances in the proximity of a Groundwater Protection Overlay Zone or water bodies may be improper.
- B) If any Regulated Substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage of 55 gallons (208 liters) or 440 pounds (200 kilograms), or more, containing Regulated Substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwaters, or surface water, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.
- C) Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a Regulated Substance and shall be familiar with procedures required to contain and clean up any releases of the Regulated Substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.
- D) Upon completion of construction, all unused and waste Regulated Substances and containment systems shall be removed from the construction site by the responsible contractor, and shall be disposed of in a proper manner as prescribed by law.”