

CHAPTER 940 – SOURCE WATER PROTECTION PROGRAM

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SECTION 940.01 PURPOSE

The purpose of this Chapter is to safeguard the public health, safety, and welfare of residents of the City of North Canton, Ohio, and all those who receive, or will receive, the benefits of the municipal water system by establishing a source water protection plan to protect groundwater supplies from degradation in and around existing and future wellfields and their recharge areas.

SECTION 940.02 DEFINITIONS.

The following terms shall have the following meanings within the context of this Chapter:

(a) “ABOVEGROUND STORAGE TANK (AST)”: any non-portable container and supporting structure, excluding all pipes connected thereto, which is used to store an accumulation of Regulated Substances and in which more than ninety (90) percent of the final volume of the storage container is at or above the final ground elevation.

(b) “AQUIFER”: a geologic formation, group of formations, or a part of a formation that is capable of yielding a significant amount of water to a well.

(c) “BASELINE QUANTITY THRESHOLD (BQT)”: Quantities of hazardous substances stored, used, or processed at the facility, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the environment.

(d) “BEST MANAGEMENT PRACTICES (BMP)”: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the environment. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills, and leaks.

(e) “CERCLA”: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., Pub. L. 96-510, December 11, 1980), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613). All references to CERCLA within this regulation are meant to indicate CERCLA, as amended by SARA.

(f) “CITY”: the City of North Canton and any of its designated agents.

(g) “DRY WELL”: a type of drainage well used for the underground disposal of storm water runoff from paved areas, which include parking lots, streets, highways, residential subdivisions, and building rooftops; agricultural areas; and industrial areas.

(h) “EPCRA”: the Emergency Planning and Community Right-To-Know Act of 1986, also known as the Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, 42 U.S.C. 960).

(i) “EXISTING FACILITY or EXISTING STORAGE UNIT”: Any Facility or Regulated Substance storage unit in operation or for which construction commenced on or before the effective date of this Chapter. Construction of a Facility or Regulated Substance storage unit has commenced if:

- (1) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either
- (2) A continuous on-site, physical construction program has begun; or the owner or operator has entered into contractual obligations for physical construction of the Facility or Regulated Substance storage unit which cannot be canceled or modified without substantial loss.

(j) “EXTREMELY HAZARDOUS SUBSTANCE”: any substance listed by the United States Environmental Protection Agency under 40 CFR Part 355 appendixes A and B; and any substance listed by the emergency response commission pursuant to divisions (B)(4) and (C)(5) of Section 3750.02 of the Ohio Revised Code.

(k) “FACILITY”: All contiguous land and related structures, appurtenances, and improvements on land with the same Facility Operator. A Facility may consist of several operations. For these purposes, contiguous land shall include land separated by a public right-of-way, so long as such land would otherwise be contiguous. This definition includes, but is not limited to buildings, houses, storage areas, industries, businesses, research facilities, institutions, recreational areas, mining or drilling or processing operations, farming operations, and planned unit developments with common maintenance. The term Facility includes all principal and accessory uses, including residential uses.

(l) “FACILITY OPERATOR”: The person or designee in possession or control of a Facility or Regulated Substance storage unit, regardless of whether such person is the owner, lessee, or other possessor. The term also includes contractors or site managers at construction sites who are responsible for the general management of Regulated Substances located on site and owners of residential property.

(m) “FIFRA”: The Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 61-152, April 26, 1910, 7 U.S.C., 136 et seq.) and major amendments of the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92-516, October 21, 1972) and the Pesticide Registration Improvement Act of 2003 (Pub. L.

(n) “FIVE-YEAR TIME-OF-TRAVEL (TOT)”. The area within which a groundwater flow model has been used to scientifically define the area where groundwater should take five years or less to reach the water supply wells.

(o) “GROUNDWATER”: all the water naturally occurring beneath the surface of the ground, excluding those waters in underground piping for water, wastewater, and/or storm water distribution/collection systems.

(p) “IMPERVIOUS SURFACE”: any surface which prevents the adsorption of Regulated Substances into surrounding soils or other pervious surface areas, and which will not react with the Regulated Substance being stored in such a way that the surface will deteriorate and no longer be impervious.

(q) “NEW FACILITY” OR “NEW STORAGE UNIT”: Any Facility or Regulated Substance storage unit beginning operation after the effective date of this ordinance.

(r) “NON-CONFORMING FACILITY” or “NON-CONFORMING STORAGE UNIT”: any existing Facility or Regulated Substance storage unit which, as of the effective date of this ordinance, would otherwise be prohibited within a designated TOT.

(s) “OAC”: Ohio Administrative Code.

(t) “OSHA”: The Occupational Safety and Health Administration created by the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq., Pub. L. 91-596, December 29, 1970).

(u) “OHIO EPA”: the Ohio Environmental Protection Agency.

(v) “ONE-YEAR TIME-OF-TRAVEL (TOT)”. The area within which a groundwater flow model has been used to scientifically define the area where groundwater should take one year or less to reach the water supply wells.

(w) “PERMANENT”: Any period of more than ninety (90) consecutive days.

(x) “PESTICIDE”: (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term shall include all fungicides, insecticides, nematocides, or other substances used for the control of pests.

(y) “PRIMARY CONTAINMENT”: the first level of containment, i.e., the inside portion of a container or storage device which comes into immediate contact on its inner surface with a Regulated Substance.

(z) “PRINCIPAL”: The primary, predominant, or foremost use or activity at a Facility.

(aa) “PROCESS”: The incorporation of a Regulated Substance into a product. It includes making mixtures, repackaging, or using a Regulated Substance as a feedstock, raw material, or starting material for making another chemical.

(bb) “RCRA”: the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.) with major amendments including the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984), the Federal Facility Compliance Act of 1992 (Pub. L. 102-386, October 6, 1992), and the Land Disposal Program Flexibility Act of 1996 (Pub. L. 104-119, March 26, 1996).

(cc) “REGULATED SUBSTANCES”: Substances identified in Section 940.06.1 of this Chapter that are regulated under the Source Water Protection Program.

(dd) “REGULATED SUBSTANCE STORAGE AREA”: that area where Regulated Substances are stored. A Regulated Substance storage area can include single or multiple Regulated Substance storage units.

(ee) “REGULATED SUBSTANCE STORAGE UNIT”: Any underground storage tank, aboveground storage tank, drum, carboy, or other container used for the storage of one or more Regulated Substance(s), including silo, bag, tank wagon, box, glass, cylinder, tote bin, and truck body, rail car, or tanker when used for the permanent or temporary storage of Regulated Substances.

(ff) “RELEASE”: The spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Regulated Substances upon or into any land or water. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "Release" when used and applied in this Chapter does not include the following:

- (1) Disposal, in accordance with all applicable legal requirements and in accordance with the requirements of RCRA regulations, of hazardous wastes in a Facility that has received and maintained all necessary legal approvals for that purpose;
- (2) Disposal or release of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid municipal, State, or Federal permit if such permits are required by applicable environmental laws;
- (3) Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- (4) Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by state or county health departments;
- (5) Any discharge of a petroleum substance in a quantity less than twenty-five (25) gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body; or
- (6) Any discharge of hazardous materials listed in SARA Title III or CERCLA when the discharge is less than twenty-five (25) pounds within a twenty-four (24) hour period; or
- (7) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under best management practices as indicated by soil tests, the Ohio State University Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the Ohio Department of Agriculture.

(gg) “REPLACEMENT”: The physical removal of a Regulated Substance storage unit for installation of a new Regulated Substance storage unit.

(hh) “RESTRICTED USE PESTICIDE”: any pesticide or pesticide use classified by the administrator of the United States Environmental Protection Agency for use only by a certified applicator or by an individual working under the direct supervision of a certified applicator.

(ii) “SARA”: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613) that amended CECRLA.

(jj) “SECONDARY CONTAINMENT”: containment external to and separate from primary containment designed to contain a release from a primary containment unit. Secondary containment may include, but is not limited to, double walls, dikes, vaults, or impervious liners (both natural and synthetic).

(kk) “SOURCE WATER PROTECTION AREA (SWPA)”: the surface and subsurface areas supplying water to wells or wellfields through which contaminants are likely to move and reach such wells or wellfields within a period of one year (one-year time-of-travel zone) or five years (five-year time-of-travel zone).

(ll) “SOURCE WATER PROTECTION PROGRAM (SWPP)”: a program established by Section 1428 of the Safe Drinking Water Act (Public Law 93-523) designed to minimize the potential for contamination of groundwater being used as a source of public drinking water.

(mm) “SPILL PREVENTION, CONTROL AND COUNTERMEASURES PLAN (SPCC)”: Detailed plans for control, containment, recovery, and clean-up of hazardous or toxic material releases or Hazardous Substances.

(nn) “STATE-OF-THE-ART”: The latest and most sophisticated or advanced stage of a technology, art, or science.

(oo) “SDWA”: The Safe Drinking Water Act of 1974 (42 U.S.C. 300f et seq., Pub. L. 93-523, December 16, 1974), as amended by the Safe Drinking Water Act Amendments of 1977 (Pub. L. 95-190, November 16, 1977), Safe Drinking Water Act Amendments of 1979 (Pub. L. 96-63, September 6, 1979), Safe Drinking Water Act Amendments of 1980 (Pub. L. 96-502, December 5, 1980), Safe Drinking Water Act Amendments of 1986 (Pub. L. 99-339, June 19, 1986), Lead Contamination Control Act of 1988 (Pub. L. 100-572, October 31, 1988), Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182, August 6, 1996), Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107-188, June 12, 2002), Reduction of Lead in Drinking Water Act (Pub. L. 111-380, January 4, 2011), Community Fire Safety Act of 2013 (Pub. L. 113-64, December 20, 2013), Drinking Water Protection Act (Pub. L. 114-45, August 7, 2015), Grassroots Rural and Small Community Water Systems Assistance Act (Pub. L. 114-98, December 11, 2015), Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, December 16, 2016), America’s Water Infrastructure Act (Pub. L. 115-270, October 23, 2018), and National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92, December 20, 2019).

(pp) “TSCA”: The Toxic Substances Control Act of 1976 (15 U.S.C. 2601 et seq., Pub. L. 94-469, October 11, 1976) as amended by major amendments including the Asbestos Hazard Emergency Response Act of 1986 (Pub. L. 99-519, October 22, 1986), Amendments to the Toxic Substances Control Act of 1988 (Pub. L. 100-551, October 28, 1988), the Asbestos School Hazard

Abatement Reauthorization Act of 1990 (Pub. L. 101-637, November 28, 1990), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Pub. L. 102-550, April 21, 2005), and the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114-182, June 22, 2016).

(qq) “TEMPORARY”: Any period of ninety (90) consecutive days or less. Regulated Substances and the individual storage units containing such substances that are used on site as part of regular business operations are not to be considered temporary storage.

(rr) “UNDERGROUND STORAGE TANK (UST)”: One or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of Regulated Substances the volume of which, including the volume of the underground pipes connected thereto, is ten (10) percent or more beneath the surface of the ground. For the purposes of this Chapter, the term does not include pipelines, stormwater and wastewater collection systems, flow through process tanks, septic tanks, and liquid traps.

(ss) “USE” or “OTHERWISE USE”: Handling, storing, transferring, processing, packaging, treating, emitting, discharging, or disposal of Regulated Substances at a Facility.

(tt) “WELL”: Any excavation, regardless of design or method of construction, used for the purpose of removing groundwater from an aquifer, or for the purpose of determining the quality, quantity or level of groundwater on a continuing basis.

(uu) “WELLFIELD”: a tract of land that contains one or a number of wells for supplying drinking water.

SECTION 940.03 GENERAL APPLICABILITY.

(a) General Applicability. Unless specified otherwise, all provisions of this Chapter apply to any Facility Operator of any real property or business when storing or otherwise using Regulated Substances as defined in Section 940.06, or conducting any activity regulated under Section 940.21 herein, and located within a Source Water Protection Area as established in Chapter 940 of the City of North Canton Codified Ordinances and as shown in the Zoning Map of the City of North Canton. It is the responsibility of the Facility Operator to determine the applicability of this Chapter to his or her property and/or business, and to comply with all requirements established in this rule as applicable to the Facility. Failure to comply with these provisions shall not excuse any violations of this Chapter.

SECTION 940.04 DESIGNATION OF THE SOURCE WATER PROTECTION AREAS.

(a) The Office of the Mayor and the Clerk of the City Council shall maintain maps clearly designating the Source Water Protection Area, including the one-year time-of-travel and the five-year time-of-travel, which are vulnerable to contamination and in which there is a risk that contaminants can be transported or otherwise find their way into the City’s present and future water supply wells and wellfields. These maps shall be available for inspection at all times during normal working hours.

(b) The Superintendent of the Water Treatment Plant or his/her designee(s) in conjunction with the Law Director and the Superintendent of Permits and Inspections may recommend to the City Council the delineation of the Source Water Protection Area (consisting of the one- year and five-year time-of-travel zones) as overlay zones.

SECTION 940.05 COMPLIANCE WITH EXISTING FEDERAL, STATE, AND LOCAL REGULATIONS.

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

SECTION 940.06 REGULATED SUBSTANCES

(a) Defined. Regulated Substances that are subject to regulation include, but are not limited to the following:

- (1) Chemicals, mixtures, and other substances, or components thereof, that are known or suspected carcinogens (as classified by EPA standards), toxic or highly toxic agents, corrosives, or substances known or suspected (as classified by 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.
- (2) 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 that acute or chronic health effects can results from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, endocrine disruptors, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, obnoxious substances causing odor and taste problems, and agents that damage the lungs, skin, eyes, or mucous membranes;
- (3) Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum-based products;
- (4) Antifreeze, transmission fluids, brake fluids, and coolants;
- (5) Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon or halogenated hydrocarbon solvents;
- (6) Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning;
- (7) Organic pigments;
- (8) Liquid storage batteries;
- (9) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters;
- (10) Corrosion and rust prevention solutions;

- (11) Industrial and commercial cleaning supplies, including drain cleaners;
- (12) Sanitizers, disinfectants, bactericides, and algacides;
- (13) Pesticides, herbicides, and fertilizers;
- (14) Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5;
- (15) Aqueous metals;
- (16) Road salt when stored in the Source Water Protection Area or as applied. Storage and application shall be done in accordance with the Ohio Water Resource Council's February, 2013 "Recommendations for Salt Storage-Guidance for Protecting Ohio's Water Resources", and the most current USEPA's NPDES "Road Salt Application and Storage BMP Fact Sheet" recommendations;
- (17) Per- and polyfluoroalkyl substances (PFAS); or
- (18) Any other material containing one percent (1%) 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 Chapter 3750-20); as a Hazardous Substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (OAC Chapter 3750-30); or as a Toxic Chemical regulated under Section 313 of EPCRA (OAC 3745100).

A substance listed above may be exempted from regulation under this Chapter 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 provides the Director of Administration or Designee proper documentation from the chemical manufacturer or other qualified, verifiable source that the Regulated Substance does not present a threat to groundwater.

(b) Baseline Quantity Thresholds (BQT). Substances listed in Section 940.06(a) shall be considered regulated when:

- (1) at any time of the year or cumulatively in any 12-month period, the aggregate of Regulated Substances Stored or used at a facility meets or exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights. All Regulated Substances are added to reach the volume and/or weight BQTs.
- (2) The Director of Administration or Designee may establish a lower BQT for any substance deemed to present a significant hazard to the water supply in amounts lower than the quantities specified in Section 940.06(b)(1).

(c) Additions/Deletions to the Regulated Substance List. The Director of Administration or Designee reserves the right to designate additional substances or remove substances from the list of Regulated Substances in Section 940.06(a) as necessary for the protection of the groundwater resource. Public notice of changes to the Regulated Substance list shall be provided by the Director of Administration or Designee in accordance with public notice requirements for the City of North Canton, but shall include no less than:

- (1) Notification of the intent to remove or add a Regulated Substance to the list via mail to all registered Facility Operators no later than thirty (30) days prior to action by the Director of Administration or Designee;
- (2) Posting of the change on the City of North Canton website and on the bulletin board in City Hall for a minimum of seven (7) days; and
- (3) Notification via first-class mail to all registered Facility Operators no later than thirty (30) days after removal or addition of Regulated Substances to the list by the Director of Administration or Designee.

SECTION 940.07 PROHIBITED LAND USES, ACTIVITIES, AND FACILITIES IN THE SOURCE WATER PROTECTION AREA.

(a) One-Year Time-of-Travel Zone. The establishment of the following new activities/land uses is prohibited in the one-year time-of-travel zone as of the effective date of this provision:

- (1) Commercial junk yards;
- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Trucking or bus terminals where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Primary metal product industries where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (6) 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 onsite exceed exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (7) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (8) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (9) 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.

(b) Five-Year Time-of-Travel Zone. The establishment of the following new activities/land uses is prohibited in the five-year time-of-travel zone as of the effective date of this provision:

- (1) Commercial junk yards;

- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (6) 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.

SECTION 940.08 FACILITY REGISTRATION.

(a) Registration. Facility registration is required once every three (3) years for any facility where on site storage or use of Regulated Substances meets or exceeds those quantities established in Section 940.06(b), or for any activity identified as a regulated activity under Section 940.21.

- (1) All facility registrations must be completed and, where applicable, submitted to the Director of Administration or Designee within ninety (90) days of the date a property becomes subject to regulation under this Chapter, and by July 1 of every third year thereafter. The Director of Administration or Designee, at his or her sole discretion, may choose to extend the time for re-registration after the first three-year period to achieve a staggered registration schedule for Facilities.

(b) Registration Requirements. Registration forms will be prescribed by the Director of Administration or Designee and will include, but is not necessarily limited to, the following information:

- (1) Name, address, and phone number of the registered Facility;
- (2) Facility Operator name and number;
- (3) Emergency contact, address, and phone;
- (4) Primary and, where applicable, secondary business activities at the Facility, including Standard Industrial Classification codes (if known) and a brief description of how Regulated Substances are used at the Facility;
- (5) 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 component(s) must be identified;
- (6) The maximum anticipated quantity of Regulated Substances;
- (7) MSDS sheets for all regulated substances used at the Facility;
- (8) The manner of Regulated Substance storage (i.e., ASTs, fifty-five (55) gallon drums, totes, etc.). AST registration will include information on current tank status, contents, volume, construction, and age;

- (9) 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;
- (10) A general description of Regulated Substance waste disposal methods. Where applicable, the Facility's hazardous waste generator identification number must be provided;
- (11) Where applicable, location of any groundwater monitoring equipment on the Facility's property;
- (12) Where applicable, the location of any dry wells on the Facility property;
- (13) Where applicable, the type of septic system used on site and type of waste treated;
- (14) Employee training logs as required by Section 940.19(c);
- (15) The current SPCC Plan, including any potential updates as required by Section 940.15 and Section 940.19.

Any person identified as the emergency contact for a Facility under Section 940.08(b)(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 Director of Administration or Designee of any change in contact person, phone number, and/or address of the emergency contact person no later than two (2) weeks after any change. Notification does not amend, alter, or change the registration timeframe of three (3) years required by Section 940.08(a).

(c) Operator Signature. 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:

- (1) Storage Unit Inspections - compliant with Section 940.15(b); and
- (2) Development and implementation of a Spill Prevention, Control and Countermeasures Plan - compliant with Section 940.19, et seq.

Any Facility Operator whose Facility is registered by the Director of Administration or Designee must submit a copy of the signed registration to the Director of Administration or Designee via electronic means or via paper no later than two (2) weeks after the registration date.

(d) Use of Existing Registration Information. 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 Director of Administration or Designee to expedite the registration process. Any existing registration information should be presented to the Director of Administration or Designee prior to or at the time of facility registration.

(e) New Facility Registration. Any Facility subject to regulation under this Chapter that begins operation or commences conduct governed by this Chapter after the effective date of this Chapter must be registered in accordance with Section 940.08(a) no later than ninety (90) days after beginning operation.

(f) Registration of Previously Exempt Facilities. Any previously exempt Facility that becomes subject to the requirements of this Chapter due to changes at the Facility must be registered in accordance with Section 940.08(a) no later than ninety (90) days after becoming subject to regulation under the Chapter. A previously exempt Facility becomes subject to regulation under this Chapter when:

- (1) A new AST or UST system subject to regulation under this Chapter is installed at the Facility;
- (2) 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 940.06(b); and/or
- (3) There is a change in the delineated TOTs.

(g) Amending Existing Facility Registrations. A Facility Operator must amend an existing Facility registration no later than ninety (90) days after any:

- (1) Change in ownership or management of the Facility;
- (2) Installation, return to service, or removal of an AST or UST system subject to regulation under this Chapter;
- (3) Permanent on-site storage or use of a previously unregistered Regulated Substance in quantities meeting or exceeding the thresholds established in Section 940.06(b);
- (4) Change in the delineated TOTs; and/or
- (5) Permanent cessation of regulated operations or storage of Regulated Substances as specified in Section 940.11.

Amending the existing facility registration does not alter or change the registration timeframe of three (3) years required by Section 940.08(a).

(h) Registration of Multiple Facilities. Any person owning and/or operating more than one facility subject to regulation under this Chapter must register each regulated facility separately in accordance with the provisions of this Chapter.

SECTION 940.09 NON-CONFORMING BUT REGULATED FACILITIES AND LAND USE.

(a) Continuance as Nonconforming But Regulated Facilities and Land Use. Any non-conforming but regulated facility, regulated substance storage unit, or land use existing as of the effective date of adoption of, or amendment to, the provisions set forth in this Chapter and which operates within the SWPA is permitted to continue operation as a nonconforming but regulated use provided it remains otherwise lawful and complies with all applicable provisions of this Chapter.

(b) Requirements. Facilities that are determined to be nonconforming but regulated with provisions of this Chapter must submit to the Director of Administration or Designee a groundwater pollution plan tailored to the unique characteristics of the activities at their facility. Said program shall include, but not be limited to the following:

- (1) SPCC plan;

- (2) Secondary containment;
- (3) Handling and disposal; and
- (4) Employee training.

(c) Registration. Nonconforming but regulated facilities that have valid permits for continued operation shall maintain valid facility registration with the Director of Administration or Designee. Any lapse in facility registration may result in revocation of the permit for nonconforming use.

(d) Alterations of Nonconforming Facilities. No nonconforming but regulated facility shall be enlarged, reconstructed, substituted or altered except under at least one of the following circumstances:

- (1) Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use;
- (2) The expansion does not increase the amount of Regulated Substances at the facility; or
- (3) The containment and method of handling and disposal of all Regulated Substances reduces the level of risk due to improvements of quality of such procedures.

(e) Discontinuance of a Use. No building, structure or premises where a nonconforming use has ceased for a period of one (1) year or more shall again be put to a nonconforming use. In the event that the nonconforming use ceases for a period of one (1) year or more, any future use of the Facility must comply with the provisions of this Chapter.

SECTION 940.10 TEMPORARY STORAGE OF REGULATED SUBSTANCES.

(a) Application. 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:

- (1) Are stored or otherwise used in quantities meeting or exceeding the quantity thresholds established in Section 940.06(b); and
- (2) Do not meet any of the exemption criteria specified in Section 940.17(a).

(b) Conditions. Temporary storage subject to regulation under this Chapter must meet the following conditions when aboveground:

- (1) The Regulated Substance storage unit(s) must meet the general container requirements specified in Section 940.15(b) through Section 940.15(d); and
- (2) When possible, the temporary storage unit(s) should be located in a non-hazardous area (i.e., where the unit(s) are not generally exposed to routine vehicular traffic, flammables, or other hazards).

Any Regulated Substance release meeting or exceeding the release notification criteria in Section 940.12(a) must be reported and remediated in accordance with Section 940.12, et seq. herein.

(c) Temporary Storage Extensions. Temporary storage of Regulated Substances in a non-residential Facility beyond ninety (90) days is permitted, provided that the Facility Operator complies with the following requirements.

- (1) The Facility Operator must notify the Director of Administration or Designee of the need to continue temporary storage of the Regulated Substance(s) prior to expiration of the temporary storage period. The Facility Operator shall submit notification to the Director of Administration or Designee on a prescribed form supplied by the Director of Administration or Designee at the request of the Facility Operator. The notification shall specify:
 - (A) Facility name, address, and telephone;
 - (B) Facility Operator name and twenty-four (24) hour emergency contact. Designation of an emergency contact must be done in accordance with Section 940.08(b);
 - (C) Regulated Substance(s) temporarily being stored at the Facility;
 - (D) The manner in which the Regulated Substances are stored; and
 - (E) The anticipated date when temporary storage will cease.
- (2) The Regulated Substance continues to be stored in compliance with Section 940.10(b) when aboveground.

(d) Prohibition of Temporary Storage in Residential Facilities. For purposes of clarity, and notwithstanding anything to the contrary contained herein, there shall be no temporary storage of Regulated Substances in a Residential Facility.

SECTION 940.11 FACILITY CLOSURE.

(a) Facility Closure. This Section applies to any non-residential Facility subject to regulation under this Chapter that becomes unoccupied or where operations are permanently discontinued for a period greater than ninety (90) consecutive days any time after the effective date of this Chapter. 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 940.11(c).

(b) Removal of All Regulated Substances. 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 property no later than ninety (90) days after the date the property initially became unoccupied or operation was permanently discontinued. In no case shall Facility operations be discontinued and the facility be used solely as storage for Regulated Substances.

(c) Closure Notice. Any Facility Operator permanently discontinuing operation of a Facility subject to regulation under this Chapter must submit an amended Facility registration to the Director of Administration or Designee in accordance with Section 940.08(g). 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 required to submit a closure notification under any

federal, state, or local closure program may copy the Director of Administration or Designee on that notification in lieu of submitting an amended Facility registration.

(d) Facility Security. 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 Section 940.15(b) through Section 940.15(d) and maintenance of all security measures implemented in accordance with this Section are required until all Regulated Substances are removed from the site.

SECTION 940.12 REGULATED SUBSTANCE RELEASES.

(a) Release Notification Required. Any Release of a Regulated Substance within a Source Water Protection Area must, if such Release:

- (1) originates from an underground storage tank; or
- (2) contacts a pervious ground surface; and
 - (A) enters a surface water body; or
 - (B) enters a dry well or storm sewer;

be reported to the Director of Administration or Designee or on-duty drinking water treatment plant operator as soon as practicable, but no longer than four (4) 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.

(b) Notification Contents. Initial notice of a Release shall include, at a minimum, information related to the following:

- (1) Location of the Release (Facility name, address, and phone);
- (2) Facility/responsible party's name, address, and phone (if different from (a));
- (3) Emergency contact and phone;
- (4) Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released.

(c) Regulated Substance Release Report. Within seven (7) days of a reported Release, the responsible party must submit to the Director of Administration or Designee 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 Director of Administration or Designee to determine if and where any additional follow-up work needs to be completed to assess the potential pollution impact of the Release.

(d) Remediation of Release. 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 Section 940.15(b) through

Section 940.15(d) when the quantity of regulated wastes generated meet or exceed the baseline quantity thresholds established in Section 940.06(b), in addition to all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to the Director of Administration or Designee by the Facility Operator in accordance with Section 940.10(c).

(e) Submission of Additional Information. The responsible party must copy the Director of Administration or Designee on all correspondence submitted to federal, state, or local agencies related to site assessment and site remediation. The Director of Administration or Designee may request, if deemed necessary, that:

- (1) The Fire Department provide a copy of the department's Ohio Fire Incident Reporting System report to the Director of Administration or Designee;
- (2) The Ohio EPA provide a copy of the agency's Emergency Response Section Incident Report to the Director of Administration or Designee; and/or
- (3) The Facility Operator develop and implement procedures to minimize the likelihood of reoccurrence of such a release. The Facility Operator must submit procedures developed under this provision to the Director of Administration or Designee no later than ninety (90) after being required, and implemented no later than one hundred eighty (180) days after approval by the Director of Administration or Designee.

(f) Liability. The City 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 Source Water Protection Area 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 City in response to such an incident, in addition to any fines imposed under Ohio and Federal law, and these codified Chapters.

- (1) The Facility Operator or other responsible party having charge of the Facility shall be invoiced by the City for all abatement costs incurred or to be incurred by the City, including all costs to third parties, in order to bring the Facility into compliance with this Chapter, and such invoice shall be paid by the Facility Operator or other responsible party having charge of the Facility within thirty (30) days of the date of the invoice.
- (2) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the Facility and certified to the County Auditor.

SECTION 940.13 RECORDS RETENTION

The Facility Operator must retain all records, reports, or other documentation related to the requirements of this Chapter on site for a minimum of five (5) years from the original date of the record, report, or document.

SECTION 940.14 INSPECTION

(a) The Director of Administration or Designee shall inspect all facilities subject to regulation under this Chapter no less than once every three (3) years for compliance with the provisions of this Chapter.

(b) The Director of Administration or Designee is appointed to administer the Source Water Protection Plan described in this Chapter within the municipal corporate boundaries of the city of North Canton and in any duly created overlay zone pursuant to state law. Subject to applicable provisions of law, the Director of Administration or Designee bearing proper identification and following 24-hour notice to the owner or operator, may enter any Facility and adjoining grounds for purposes of making such inspections, except in emergency situations.

(c) The Facility Operator or designee must accompany the Director of Administration or Designee during the inspection to help ensure the accuracy of the inspection and the safety of the persons involved.

(d) In the event of an emergency situation, the Director of Administration or Designee shall have the right to immediate access to all facilities and adjoining grounds in order to protect the public health and safety without any notice to the owner or operator.

(e) If the owner or operator refuses access or entry, the Director of Administration or Designee shall apply to a court of competent jurisdiction with supporting affidavits for an appropriate warrant or other process to enter the property and adjoining grounds, and the owner or operator shall bear the costs of the court action.

SECTION 940.15 GENERAL REGULATED SUBSTANCE STORAGE PROVISIONS: ABOVE GROUND STORAGE.

(a) Applicability. 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 940.06(b).

(b) General Container and Regulated Substance Handling Requirements At Non-Residential Facilities. All containers subject to regulation under this Chapter used for the storage or use of Regulated Substances at new and existing non-residential facilities must be:

- (1) Product-tight and free of any defects which may result in a release of the contained Regulated Substance;
- (2) Made of or lined with materials which will not react with and are otherwise compatible with the Regulated Substance stored;
- (3) 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 940.10), the Regulated Substance storage unit must also be labeled with the date on which temporary storage began.
- (4) 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

- (5) 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 be made available on request by the Director of Administration or Designee. 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 Chapter.

Any Facility Operator installing an impervious surface or providing secondary containment under part (d) of this Section must do so no later than one hundred eighty (180) days after becoming subject to regulation under part (d). Continued storage of Regulated Substances on a pervious surface beyond this one hundred eighty (180) day period is permitted only if granted a temporary variance.

(c) Defective Storage Units. 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.

(d) Storage in Trucks, Trailers, Tankers, or Rail Cars. Any truck, trailer, tanker, or rail car used for the storage of Regulated Substances within the Source Water Protection Area must:

- (1) 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;
- (2) Be clearly labeled with the contents;
- (3) 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
- (4) 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 opening(s).

(e) Spill Prevention, Control and Countermeasures Plan. Permanent storage or use of Regulated Substances subject to regulation under this Chapter 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 Prevention, Control and Countermeasures Plan in accordance with Section 940.19. A Facility Operator is exempt from this requirement if the storage unit or storage/usage area is secondarily contained.

(f) Residential Regulated Substance Storage Units. All containers subject to regulation under this Chapter used for the storage or use of Regulated Substances at new and existing residential facilities must be:

- (1) In compliance with parts (1), (2), (3), and (4) in Section 940.15(b);
- (2) 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,
- (3) Provide a Spill Prevention, Control and Countermeasures Plan in accordance with Section 940.19(e).

SECTION 940.16 ABOVEGROUND STORAGE TANK (AST) INSTALLATION

(a) Installation of New ASTs. This Section applies to the installation of ASTs at new or existing facilities after the effective date of this Chapter when the capacity of the AST meets or exceeds the quantity thresholds established in Section 940.06(b). All new ASTs must be registered in accordance with Section 940.08 and meet the general handling requirements specified in Section 940.15(b) in addition to the following as required:

- (1) Bottom Clearance. All ASTs must have ground clearance of no less than two (2) 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.
- (2) Secondary Containment. All ASTs meeting or exceeding the BQs must be installed with secondary containment meeting or exceeding those requirements specified in Section 940.17(c) through Section 940.17(e).
- (3) Barriers. Any AST open to vehicle damage must be protected against impact with physical barriers meeting the approval of the Director of Administration or Designee. Any impervious dike utilized as secondary containment meets the requirements for a physical barrier.

(b) Replacement of Existing ASTs. Replacement of an existing AST after the effective date of this Chapter 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 Chapter, unless specified otherwise.

SECTION 940.17 SECONDARY CONTAINMENT REQUIREMENTS.

(a) Exemptions. The following are exempt from secondary containment requirements set forth in this Chapter:

- (1) Storage of Regulated Substance(s) indoors in an area capable of fully containing within the Facility a total release of the Regulated Substance(s) for which the exemption is being claimed, or draining the release to a wastewater treatment system capable of treating the released substance(s);
- (2) Storage of Regulated Substances as consumer products packaged in original containers; and

- (3) Storage of Regulated Substances in storage units/areas with secondary containment comparable to or exceeding that required in Section 940.17(c) through Section 940.17(e) herein.

(b) Allowance for Temporary AST. Temporary ASTs may be permitted for construction purposes provided they are state-of-the-art construction, have leak detection monitoring devices, and have secondary containment approved by the local fire authority.

(c) Construction. 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.

(d) Double Walls and Diking. An AST must have at least one of the following at the choice of the Facility Operator:

- (1) 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
- (2) Diking: capable of containing one hundred and ten percent (110%) of the total volume of the tank. If the storage area contains multiple ASTs, the secondary containment must be large enough to contain one hundred and fifty percent (150%) of the volume of the largest AST placed in it, or ten percent (10%) of the aggregate internal volume of all ASTs in the storage area, whichever is greater.

(e) Precipitation.

- (1) 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:
 - (A) 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
 - (B) 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 Division (2) of this Section.
- (2) 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 Director of Administration or Designee. The Director of Administration or Designee 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.

SECTION 940.18 TEMPORARY PLACEMENT OUT OF SERVICE OF ASTS.

(a) Temporary Placement Out of Service.

- (1) Removal from Service. Any Facility Operator intending to place an AST system out of service for less than one (1) year must remove the system from service in accordance with Chapter 1301:7-7 (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 940.17(a), or any heating fuel AST taken out of use for seasonal conditions, is exempt from this requirement.
- (2) Returning the Tank to Service. Unless required otherwise under another applicable federal, state, or local regulation, any AST placed out of service for more than ninety (90) consecutive days but less than one (1) year which is to be brought back into service must be brought back into service by the Facility Operator in accordance with Chapter 1301:7-7 (the State Fire Code). Any AST meeting any of the secondary containment exemption criteria in Section 940.17(a) is exempt from this requirement.

SECTION 940.19 SPILL PREVENTION, CONTROL AND COUNTERMEASURES PLANS.

(a) Non-Residential Facilities. Facility Operators required to develop a Spill Prevention Control and Countermeasures Plan (SPCC) must complete the plan no later than one hundred eighty (180) days after becoming subject to this requirement. The Public Utilities Director or Designee may provide, at the request of the Facility Operator, a template of the SPCC to facilitate development of the SPCC. The SPCC does not require the signature of a professional engineer. The SPCC must be submitted with the original registration and with every subsequent re-registration. The SPCC must be stored on site and made available on request to the fire department or other inspection authority.

Any SPCC developed in compliance with other federal, state, or local regulatory programs may satisfy the requirements of this provision provided that SPCC contains all information specified in Section 940.19(b). Any deficient information must be amended into the existing SPCC to be considered compliant with this Section. If a pre-existing SPCC is being used to satisfy this requirement, only compliance with Section 940.19(c) and Section 940.19(d) is required.

(b) Content of the Spill Prevention, Control and Countermeasures Plan. The SPCC must specify all of the following:

- (1) Facility name, address, and phone;
- (2) Facility Operator name and phone;
- (3) Emergency contact and phone. Designation of an emergency contact must be done in accordance with Section 940.08(b);

- (4) A brief description of the type of business conducted at the Facility;
- (5) The location of the Regulated Substance storage area(s) for which the SPCC is being developed;
- (6) The type(s) and normally anticipated quantity of Regulated Substance(s) stored in the Regulated Substance storage area(s) for which the plan is being developed;
- (7) Potential hazards (including activities) to the Regulated Substance(s) stored in the area;
- (8) All openings/routes through which a release from the storage area(s) would potentially flow into the Facility's property and within five hundred (500) feet beyond the property line, including floor drains, doorways, storm sewers, dry wells, streams, and other openings/routes;
- (9) 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
- (10) Emergency equipment available to the Facility Operator and location of equipment.

(c) Employee Training. A Facility Operator must train all employees annually on the release procedures outlined in the SPCC. The Facility Operator must maintain a log of employee training and make the log available to the Director of Administration or Designee upon request. Copies of the SPCC must be readily available for employee use in work areas in or near Regulated Substance storage areas.

(d) Updating the SPCC. A Facility Operator must review and amend the SPCC as necessary every three (3) years and when any of the following occur:

- (1) There is a change in ownership or management at the Facility;
- (2) An out-of-service AST system lacking secondary containment comparable to that required in Section 940.17 is returned to service; and/or
- (3) 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).

(e) Residential Spill Control. Any residence with a Regulated Substance storage unit is required to have a Spill Prevention, Control and Countermeasures Plan, the contents of which shall be in accordance with the applicable provisions of Section 940.19(b). 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.

SECTION 940.20 UNDERGROUND STORAGE TANKS.

(a) Applicability. This Chapter 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 fifty-five (55) gallons when located within the one (1) or five (5) year time-of-travel zone (TOT).

(b) Registration of UST Systems.

- (1) Registration. All UST systems subject to regulation under this Chapter must be registered in accordance with Section 940.08(a) of this Chapter. 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 Director of Administration or Designee to satisfy this registration requirement. The Director of Administration or Designee may request additional information, if deemed necessary to protect groundwater resources.
- (2) Information. UST registration shall include, but is not limited to, information on the following:
 - (A) Facility name, address, and phone;
 - (B) Facility Operator, address, and phone;
 - (C) Number, size, construction, date of installation, and location of USTs;
 - (D) Regulated Substances stored in the UST;
 - (E) Brief description of the type of monitoring equipment used for tanks;
 - (F) Whether double-walled tanks and leak detection systems are in place and brief description of systems; and
 - (G) Schedule for inspections and certifications of inspectors.
- (3) New UST Registration. Any new UST system subject to regulation under this Chapter that is installed at a facility beginning operation after the effective date of this Chapter must be registered in accordance with Section 940.08(a) no later than one hundred eighty (180) days after beginning operation.
- (4) Registration of Previously Exempt Facilities. Any previously exempt Facility that becomes subject to regulation under this Chapter due to:
 - (A) Installation of an UST subject to regulation under this Chapter;
 - (B) Return to service of any temporarily abandoned UST or UST containing de minimis quantities of Regulated Substances; and/or
 - (C) Changes in the delineated Source Water Protection Area must be registered in accordance with Section 940.08(a) no later than one hundred eighty (180) days after becoming subject to regulation under this Chapter.
- (5) Amending Registrations. A Facility Operator must amend an existing UST registration no later than ninety (90) days after any:
 - (A) Replacement of an existing UST system;
 - (B) Change in ownership or management of the Facility;
 - (C) Return to service of any temporarily abandoned UST or UST containing de minimis quantities of Regulated Substances;
 - (D) Permanent abandonment and/or removal of a UST; and/or
 - (E) Change in the delineated Source Water Protection Area.
- (6) Registration of Multiple Facilities. Any person owning and/or operating more than one Facility subject to regulation under this Chapter must register each regulated Facility separately in accordance with the provisions of this Chapter.

(c) UST Installation Requirements

(1) New USTs. All underground storage tanks and piping systems installed after the effective date of this Chapter shall be capable of containing a release of a Regulated Substance and prevent a release of a Regulated Substance to the environment at any time during the operation life of the system using the following measures at a minimum:

(A) be double-walled, have spill prevention and overflow prevention equipment, and have sumps as required by OAC 1301-7-9-06, effective September 17, 2017, and as amended from time to time. USTs with a capacity between 55 gallons and 110 gallons shall have equivalent protection methods, although these USTs are not subject to OAC 1301-7-9-06.

(d) Upgrading/Replacement of UST Systems. For the purpose of this Chapter, 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 Chapter, unless specified otherwise.

(e) Temporary Placement Out-of-Service, Temporary Closure, Abandonment, Removal, and Change in Service of UST Systems

(1) Compliance. 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.

(2) Abandonment of UST Systems. 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 Director of Administration or Designee 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.

SECTION 940.21 MANAGEMENT OF SPECIFIC POTENTIAL POLLUTION SOURCES
IN THE SOURCE WATER PROTECTION AREA.

(a) Land Application of Pesticides and Fertilizers.

(1) Applicability. 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 (1) and five (5) year TOT.

(2) Acceptable Pesticides and Use. For land application of chemical or other pesticides not recognized to be ecological, least-toxic biological (and/or mineral) materials, application must be made to the Director of Administration or Designee for approval to use the pesticide and must

show that least toxics are not adequate for the pest control problem and that the chemical will not pose a risk to the water supply. The Director of Administration or Designee must approve the application of the proposed pesticide and under what conditions it may be applied by the applicant. The pesticide must be limited to the place and time of infestation.

- (3) Registration of Restricted Use Pesticides. Facility Operators applying restricted use pesticides within the one (1) and five (5) year TOT in any quantity must register the application of those restricted use pesticides with the Director of Administration or Designee within one hundred eighty (180) days of the effective date of this Chapter and by March 1 of every third 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 Director of Administration or Designee to satisfy this registration requirement.
- (4) Registration Information. Registration will include, but is not necessarily limited to, general information on the facility and the application of restricted use pesticides at the facility.
- (5) Registration of Previously Exempt Facilities. Any previously exempt Facility that becomes subject to regulation under this Section due to:
 - (A) Changes in the types of pesticides applied at a Facility from non-restricted to restricted use pesticides; and/or
 - (B) Changes in the delineated Source Water Protection Area. must be registered in accordance with Section 940.08.

(b) Road Salt Storage.

- (1) Prohibition. No road salt shall be stored within the one (1) year TOT.
- (2) New Facilities. All road salt stored at new facilities in the five (5) year TOT must be stored under covered shelter on an impervious surface. This requirement does not apply to salt prepackaged for consumer use.
- (3) Registration. Any Facility in the five (5) year TOT storing road salt outdoors must be registered in accordance with Section 940.08.

(c) On-Lot Sewage Systems.

- (1) Registration. 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 940.08. 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 Director of Administration or Designee to satisfy the registration requirements in this Section. The Director of Administration or Designee reserves the right to ask for additional information when required.
- (2) Cessation of On-Site Disposal. 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 ninety (90) days of ending disposal in accordance with Section 940.08(g) herein.

(d) Commercial Junk Yards.

- (1) All commercial junk yards in the Source Water Protection Area must be registered in accordance with Section 940.08, et seq., and must comply with the following as applicable: Section 940.11, et seq. (Facility Closure); and Section 940.12 et seq. (Release Notification), and Section 940.15(b) (General Container and Regulated Substance Handling Requirements).
 - (2) Fluid Management. 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 Chapter as required.
- (e) Dry Wells.
- (1) Registration of New Dry Wells Within the One-Year TOT. The Director of Administration or Designee must be notified of the installation of any new dry well within the One-Year TOT no later than ninety (90) days after installation of the new dry well. The registration shall include information related, but not limited to, the location and design of the new dry well(s). One registration form may be submitted for the installation of multiple dry wells with the same design at a site.
 - (2) Use of Existing Registration Information. 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 Director of Administration or Designee to satisfy the registration requirements of this Section. The Director of Administration or Designee reserves the right to request additional information if required.
 - (3) Inspection and Maintenance Schedule. Any municipality using dry wells for storm water management in the one-year TOT must develop and implement a schedule for the regular inspection and maintenance of those dry wells.
- (f) Construction Activities.
- (1) All ground applied prophylactic termite treatment for new construction in the Source Water Protection Area shall consist of non-toxic methods and/or bait system termiticides. All developers will notify potential buyers of this provision and demonstrate to the Director of Administration or Designee that they have done so.
 - (2) All excavations within the Source Water Protection Area shall be performed in such a way as to minimize the contamination of soils and the aquifer.
 - (3) For new developments and/or subdivisions that institute a covenant of conditions and restrictions for lots within the subdivision in the Source Water Protection Area, all conditions/restrictions of the covenant must be in compliance with this Chapter and the covenants must state that

compliance with the provisions of this and any other Source Water Protection Ordinance/Zoning Overlay is required.

(g) Fill Operations.

- (1) Fill dirt shall not contain fly ash, sewage sludge, asphalt grindings, shingles, construction debris or any other material prohibited by any local, state, or federal regulation.
- (2) All fill operations must comply with local, state, and federal law, including, but not limited to, the Codified Ordinances of the City of North Canton, 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 Stark County Health Department as required by this rule and shall also be filed with the Director of Administration or Designee. Such notice is required to be filed seven days prior to the commencement of fill operations.
- (3) All fill sites shall have limited, controlled access, and be posted with signage indicating: “Source Water Protection Area. Up to Ten Thousand Dollar (\$10,000.00) fine 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.
- (4) Any violation of this Section shall be subject to the penalty provisions of this Chapter.

(h) Surface Water Impoundment.

- (1) Management. Any ponds or other surface impoundment of water for any reason or purpose in the Source Water Protection Area, must be managed to exclude contamination by any toxic or Regulated Substance.
- (2) Need for Liner. If determined by the Director of Administration or Designee, that an impermeable liner is necessary to prevent contamination of groundwater from the pond, then the owner of the land shall be responsible for providing such a liner. Liners must be repaired or replaced as needed to function as a barrier to potential hazardous substances.

SECTION 940.22 VIOLATION, PENALTY, AND ADMINISTRATIVE REMEDIES.

(a) Violations.

- (1) Any Facility Operator who knowingly submits false or inaccurate information to the Director of Administration or Designee, or who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Chapter is considered in violation of this Chapter and subject to penalty as set forth herein.
- (2) Any person found by the Director of Administration or Designee to be in violation of any provision of this Chapter or any order, requirement rule or regulation issued under the authority of this Chapter will be served with a written notice stating the nature of the violation, the potential penalties

pursuant to this Chapter, and providing reasonable time for compliance. If the Director of Administration or Designee has previously promulgated a schedule of compliance or issued an order addressing the same or a similar violation and the time for compliance has passed, the Director of Administration or Designee may dispense with establishing another time period for compliance.

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

(b) Penalties.

- (1) Any person, firm, or corporation, violating any of the provisions of this Chapter or any amendment or supplement thereto, shall be in violation and fined not more than Five Hundred Dollars (\$500.00) per day, per offense. Each and every day such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues, shall constitute a separate offense.
- (2) Dumping of any Regulated Substance as referenced in the Chapter or prohibited materials associated with a prohibited land use, activity, or facility as referenced in this Chapter shall be remediated immediately and may be punishable by a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of non-compliance shall be considered a separate offense.
- (3) Any person or entity found to have introduced contamination of any form into the Source Water Protection Area shall be in violation of this Chapter and subject to a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of violation shall be considered a separate offense.

(c) Administrative Remedies.

- (1) In addition to the violations and penalties in this Section, the Director of Administration or Designee, upon discovery of violation of any provision of this Chapter, 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 Chapter;
 - (C) Ordering remedial actions;
 - (D) Requiring pollution control and abatement; and
 - (E) Requiring development of compliance schedules to implement corrective action.
- (2) When considering the exercise of any of the above powers or actions, the Director of Administration may take into consideration any evidence presented by the entity regarding cost effectiveness and the economic impact imposed by the requirements or actions.

- (3) Notwithstanding the imposition of fines under this Chapter, the violator is responsible for costs of clean-up and remedial expenditures required to restore the site to its condition as it existed before the violation. The violator may be held responsible only for that contamination which the violator caused. The Director of Administration or Designee is authorized to recover only those costs reasonably related to the violation.

SECTION 940.23 APPEALS UNDER THE SOURCE WATER PROTECTION PROGRAM.

(a) Any person aggrieved by any order or citation issued under the provisions of the Source Water Protection Plan may appeal such decision to the Stark County Court of Common Pleas or other court of competent jurisdiction.

SECTION 940.24 WAIVERS.

Where it appears that the implementation of the provisions of this Chapter create an undue hardship upon any affected party, the Director of Administration or Designee may waive the application of this Chapter upon such terms and conditions as the Director of Administration or Designee deems necessary and appropriate to implement the purposes of this Chapter, as long as such waiver does not substantially increase any risk or hazard to the public health, water supply, wells or wellfields. Any waiver of the provisions of this Chapter granted by the Director of Administration or Designee shall be subject to public notice and appeal as provided herein.

SECTION 940.25 CONFIDENTIALITY.

Information contained in any documentation collected by or submitted to the Director of Administration or Designee under the provisions of this Chapter 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.

SECTION 940.26 SEVERABILITY

(a) Each provision of this Chapter shall be construed as separate, to the end that if any part of it is held invalid for any reason, the remainder shall continue in full force and effect.

(b) This ordinance shall take effect and be in full force from and after the earliest period allowed by law.