

**CITY OF DAYTON WELL FIELD PROTECTION PROGRAM**  
**CHAPTER 53 OF THE R.C.G.O., WATER DEPT. REGULATIONS**

**GENERAL PROVISIONS**

**§ 53.01 PURPOSE; SCOPE.**

(A) The purpose of Sections 53.01 through 53.42 is to safeguard the public health, safety and welfare and to provide for the protection and availability of existing and future potable water supply by instituting rational and objective requirements, standards and criteria for the control of toxic or otherwise hazardous substances within specifically defined areas in and around the City's present and future wells and well fields, thereby enhancing the protection of the public potable water supply from contamination.

(B) Scope.

(1) The provisions of Sections 53.01 through 53.42 shall be effective within the City of Dayton corporate limits, except as otherwise provided. This ordinance provides for pollution control pertaining to the public water supply.

(2) Nothing contained in Sections 53.01 through 53.42 shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this ordinance.

(3) Nothing contained in Sections 53.01 through 53.42 shall be construed so as to interfere with the duties and powers of the Director of Water as set forth in Section 50.40 of the R.C.G.O.

**§ 53.02 DIRECTOR OF WATER DEPARTMENT TO ADMINISTER.**

Except as otherwise provided herein, the Director of the Department of Water for the City of Dayton, or his designated agents, hereinafter referred to as Director, shall administer, implement, and enforce the provisions of Sections 53.01 through 53.42.

**§ 53.03 NOTICE OF VIOLATION.**

(A) Any person found in violation of any provision of Sections 53.01 through 53.42 or any order, requirement, rule or regulation issued under the authority of such sections

will be served with a written notice stating the nature of the violation and providing reasonable time for compliance; provided however, written notice of violation may be dispensed with under the conditions described in Section 53.31, R.C.G.O. and provided further, that if the Director has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Director may dispense with establishing another time period for compliance.

(B) The notice shall be served in the manner provided by law for the 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.

#### § 53.04 INSPECTIONS.

Subject to applicable provisions of law, the Director or authorized designee bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling and records examination pertaining to the requirements of this ordinance to ensure that activities are in accordance with the provisions of Sections 53.01 through 53.42. Upon request of the entity which is the subject of the inspection and if permitted by the Ohio Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the Director for the above stated purposes, the Director may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

#### § 53.05 VANDALISM.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with the City's water facilities, or which results in the violation of Sections 53.01 through 53.42.

§ 53.06 SUBJECT AREAS.

(A) The areas subject to the provisions of Sections 53.01 through 53.42 are the Well Field Protection Overlay District and the Well Head Operation District as shown on the official zoning map of the city.

(B) Maps designating the Well Field Protection Overlay District and the Well Head Operation District shall be included in the official zoning map for the city.

§ 53.07 DETERMINATION OF APPLICABILITY.

It shall be the responsibility of any person owning real property and/or owning or operating a business within the City of Dayton corporate limits to make a determination of the applicability of Sections 53.01 through 53.42 as it pertains to the property and/or business under his ownership or operation and his failure to do so shall not excuse any violations of said sections.

§ 53.08 SEVERABILITY.

A finding by any court or other jurisdiction that any part or provision of this ordinance is invalid shall not affect the validity of any other part or provision of this ordinance which can be given effect without the invalid parts or provisions.

§ 53.10 ACCEPTANCE OF CONSERVATION EASEMENTS

The City Manager shall have authority to accept any conservation easement granted by a property owner in connection with any program established by the Well Field Protection Board to reduce the risk of pollution of the public water supply.

REGULATED SUBSTANCES

§ 53.20 DEFINITION.

The substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals which are health hazards. Regulated Substances include:

(A) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(B) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(C) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1) per cent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) per cent or greater of the composition on a weight per unit weight basis.

(D) Ingredients of mixtures prepared within the Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one (0.1) per cent of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one (1) per cent of the mixture (on a weight per unit weight basis) if non-carcinogenic.

(E) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids in use in equipment for the transmission of electric power to homes and businesses).

#### § 53.21 MANAGEMENT.

(A) No person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle", any regulated substance on public or private property within the City of Dayton, or in any area under the jurisdiction of said City, except as provided by law, statute, ordinance, rule or regulation.

(B) Any Violation of Division (A) of this Section is hereby determined to be a nuisance.

(C) With the exception of single or two-family residences wherein the Regulated Substances are for the maintenance of the residence or vehicles under control of the occupant, the use of any land, building, or structure in the Well Field Protection Overlay District or the Well Head Operation District in which any Regulated Substances are handled and for which a Zoning Occupancy Certificate has not been issued is hereby determined to be a dangerous public nuisance.

(D) Except in the case of a seasonal discontinuation of operation, the owner or operator of any non-residential property that becomes unoccupied or has discontinued

operation for a period of ninety consecutive days shall remove all Regulated Substances from the property other than those used exclusively for heating, cooling, and providing electrical lighting for the premises within ninety days after the date upon which the property initially became unoccupied or the operation discontinued. Except as noted above, Regulated Substances which are excluded from reporting requirements shall be removed by the date specified above. The owner or operator shall secure the Regulated Substances on the property until they have been removed. The owner or operator shall notify the Director in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address and the operator's name, phone number, and new address.

(E) Regulated Substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the Well Field Protection Overlay District and the Well Head Operation District, provided such Regulated Substances are present at the construction site for which the permits have been issued and do not pose a real and present danger of contaminating surface and/or ground water. For the on-site storage of fuel for vehicles or other equipment which may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Regulated Substances not used in the construction process and all wastes generated during construction shall be removed from the construction site no later than at the time of the completion of the construction. If construction activity has ceased for 60 days, all Regulated Substances shall be removed from the site until such time as the construction activity is to resume.

(F) In R.C.G.O. Sections 150.363.5(E) and 150.363.6(E), the Zoning Administrator is to determine the intensity of each use in the Well Head Operation District and the Well Field Protection Overlay District, respectively, utilizing the Total Maximum Daily Inventory and the Facility Hazard Potential Rating. For any use in either of these districts, no owner, occupant, or other person shall handle an amount of Regulated Substances in excess of the Total Maximum Daily Inventory determined for the use, or handle a type and quantity of Regulated Substances of such hazard that the Facility

Hazard Potential Rating determined for the use is exceeded. As stated in R.C.G.O. Sections 150.363.5(F) and 150.363.6(F), with respect to any use in either of these districts, no substitution of a non-conforming use shall be permitted which results in an increase in the Total Maximum Daily Inventory or an increase in the Facility Hazard Potential Rating assigned to the use.

§ 53.22 EXEMPTION.

The City of Dayton Environmental Advisory Board (EAB) may exempt a Regulated Substance from regulation if it determines that the substance poses no risk to ground water. A request for such exemption shall be submitted to the Chairperson of the EAB, and shall contain such information as the EAB may require. The decision of the Environmental Advisory Board shall be final and binding on the Director and the Zoning Administrator and may not be appealed to any other city board or city agency.

REPORTING AND PROTECTION REQUIREMENTS

§ 53.30. REGULATED SUBSTANCE ACTIVITY INVENTORY REPORTING.

(A) Applicability.

(1) Except as provided in division (B) of this section, any owner or occupant of any land in the Well Field Protection Overlay (WP) District at the effective date of this section shall file a Regulated Substance Activity Inventory Report with the Director. The Report shall be filed by March 1 of every odd-numbered year.

(2) Any prospective new owner or occupant of any land in the WP District shall file a Regulated Substance Activity Inventory Report with the Director before occupying the site, and henceforth as required in Section 53.30(A)(1). Any prospective new owner or occupant that is also required to obtain a new Zoning Certificate shall obtain such certificate before occupying the site. For purposes of this subdivision, "new" shall be defined as subsequent to the effective date of this section.

(3) Where a person owns, operates, or occupies more than one location, Regulated Substance Activity Inventory Reports shall be filed for each location.

(4) All occupants of land in the Well Head Operation (WO) District, except for those engaged in municipal water department activities, shall file a Regulated Substance Activity Inventory Report with the Director by December 1 of every year. The

report shall include a listing of all Regulated Substances which are projected for use on-site in the following twelve (12) months, whether stored in the WO District or brought in from other locations. The report shall indicate which of the Regulated Substances are for pest management, and shall include a Material Safety Data Sheet for each pest management substance.

(5) The owner or operator of an agricultural use shall file a Regulated Substance Activity Inventory Report by February 1 of every year. The Report shall list the total amount of each Regulated Substance which is projected for use on-site in the following twelve (12) months. The report shall indicate which Regulated Substances are to be stored on site for over seventy-two (72) hours.

(B) Exclusions to Regulated Substance Activity Inventory Reporting.

Any exclusion set forth below applies to Regulated Substance Activity Inventory Reporting; and any spill, leak, discharge, or mishandling is subject to the provisions of R.C.G.O. Section 53.31. Any exclusion granted herein does not remove or limit the liability and responsibility of any person or use involved.

The following are excluded from the reporting requirements set forth in R.C.G.O. Section 53.30:

(1) Regulated Substances for:

(a) Routine business activities, provided that the total of Regulated Substances does not exceed twenty (20) gallons or one hundred sixty (160) pounds at any time.

(b) The non-routine maintenance or repair of property, provided that the total of Regulated Substances does not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(c) Cleaning, provided such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the total inventory of such cleaning agents does not exceed two hundred (200) gallons or one thousand six hundred (1,600) pounds at any time. Cleaning agents containing halogenated solvents are not excluded from reporting.

(d) Medical and research laboratory uses, provided that the Regulated Substances are stored, handled, or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the total inventory of Regulated Substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds.

(e) Melting ice from walking and driving areas of a property or using in water softeners, provided that such Regulated Substances are salts and are stored inside a building that has an impervious floor.

(f) The operation of an operable motor vehicle or watercraft in which the Regulated Substances are contained. Except as provided for in R.C.G.O. Section 53.30(B)(6), the contents of the tanker portion of a tractor trailer are not excluded from reporting.

(g) Single or two-family residences, provided, that the storage and use of such Regulated Substances are related to the maintenance of the residence or vehicles at the residence and provided waste Regulated Substances are handled and disposed of properly.

(h) Personal or household use as food or drink for a person or animal, except that Regulated Substances used in the manufacture and extraction of such are not excluded from reporting.

(i) Swimming pool water quality maintenance, provided that the total of Regulated Substances does not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time.

(j) Paving, the pouring of concrete, or construction for which all necessary permits have been obtained, provided that such Regulated Substances are present at the construction site for which the permits have been issued.

(k) The operation of elevators, escalators, moving walkways, and similar devices that are an integral part of a building or structure.

(2) Refrigerants contained in equipment used for on-site air-cooling or contained in household appliances.

(3) The solid form of plastic resins, solid inks, dry wall mud, caulking, joint and topping compounds, and similar solids and semi-solids that have been determined by the Director to pose a minimal threat to the ground water, provided the substances are

stored inside a building that has an impervious floor. Plastic resins containing chlorine are not excluded from reporting.

(4) Gasses, with the exception of ammonia, halogens, and halogenated compounds. Gasses for retail are not excluded from reporting. Regulated Substances used in the manufacture and extraction of gasses, and repackaged or warehoused gasses are not excluded from reporting.

(5) Food grade Citric Acid.

(6) Regulated Substances being transported through the WFPA, provided that the transporting vehicle is in compliance with applicable City ordinances and Federal and Ohio laws and regulations, and provided that the transporting vehicle is in continuous transit, making delivery, or is stopped for no more than seventy-two (72) hours.

(7) Batteries in use in equipment and the storage of new replacement batteries, provided the batteries are stored inside a building that has an impervious floor. Batteries for retail, to be disposed, or to be recycled are not excluded from reporting. Regulated Substances used in the manufacture of batteries, and repackaged or warehoused batteries are not excluded from reporting.

(8) Cosmetics as defined by Section 321 of Title 21 of the United States Code. Regulated Substances used in the manufacture and extraction of Cosmetics, and repackaged or warehoused cosmetics are not excluded from reporting.

(9) Office supplies that are used solely for the operation of on-site administrative offices, provided such supplies are prepackaged in a form ready for use by the general public. Regulated Substances used in the manufacture of Office supplies, and repackaged or warehoused office supplies are not excluded from reporting.

#### § 53.31 SPILLS, LEAKS OR DISCHARGES.

(A) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Well Field Protection Overlay District or the Well Head Operation District shall, if such spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give notice immediately but no later than within thirty minutes to the Superintendent of Water Supply and Treatment, or the drinking water treatment plant operator on duty by

telephone, unless notification within that time is impractical under the circumstances. When it is impractical for a person to give notice of a spill within the first thirty minutes, notice shall be given as soon as it becomes practicable to do so. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

(B) Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the City in response to such an incident, in addition to the amount of any fines imposed on account thereof under Ohio and Federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(C) The City of Dayton shall post signs in conspicuous places advising transporters of Regulated Substances of notification procedures in the event of a spill or accidental discharge.

(D) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. used in routine agricultural operations, including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, the OSU 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 shall not be considered a spill, leak, or discharge subject to the reporting provisions of this Section.

#### § 53.32 UNDERGROUND STORAGE TANKS.

(A) Definition. An underground storage tank is 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 per cent or more beneath the surface

of the ground. The term Underground Storage Tank does not include any of the following:

- (1) Pipeline facilities, including gathering lines, regulated under the “Natural Gas Pipeline Safety Act of 1968”, 82 Stat. 720, 49 U.S.C.A. 2001, as amended;
- (2) Surface impoundments, pits, ponds, or lagoons;
- (3) Storm or waste water collection systems;
- (4) Flow-through process tanks;
- (5) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated;
- (6) Septic tanks;
- (7) Tanks used for storing heating fuel for consumptive use on the premises where stored provided the premises are single or two-family residences.

(B) Well Field Protection Overlay District.

Owners and operators of underground storage tank systems which are located within the Well Field Protection Overlay District shall comply with the requirements of Ohio Administrative Code Section 1301:7-9-10, as amended. Owners and operators of new underground storage tank systems for which installation is commenced after the effective date of this ordinance shall comply with the requirements of Ohio Administrative Code Section 1301:7-9-10 at the time of installation. Owners and operators of underground storage tank systems within the Well Field Protection Overlay District shall comply with the requirements of this subsection irrespective of whether they are located within a sensitive area as defined in Ohio Administrative Code Section 1301:7-9-09. Owners and operators of any underground storage tank system in the Well Field Protection Overlay District which is out of service for twelve consecutive months after the effective date of this ordinance shall permanently abandon or remove the underground storage tank in accordance with the requirements of Ohio Administrative Code Rule 1301:7-9-12(B), (C), and (E) through (M), inclusive, and they shall file one copy of the closure report required in subsection (L) with the Director of Water.

(C) Well Head Operation District.

Except as provided for in Section 150.363.5(A), underground storage tanks are not permitted in the Well Head Operation District.

§ 53.33 FALSIFYING INFORMATION.

No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this ordinance.

§ 53.34 RETENTION OF RECORDS.

Any reports or records compiled or submitted pursuant to this section shall be maintained by the user for a minimum of five (5) years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.

§ 53.35 WELL HEAD OPERATION DISTRICT (WO)

(A) As required in 53.30(A)(4), any operator in the WO not engaged municipal water department activities must file a Regulated Substance Activity Inventory Report (RSAIR) by December 1 of every year. The report shall list Regulated Substances proposed for use in the following twelve month period. Within sixty days of receipt of the RSAIR, the Director shall provide the operator with a list of any of these Regulated Substances which are prohibited from use in the WO. Upon receipt of such notice from the Director, the operator shall be permitted to revise the RSAIR to include substance(s) to replace those prohibited. The operator shall remove the prohibited substance from the WO within thirty days from the receipt of the notification of the use prohibition from the Director.

(B) The Director may prohibit the handling of any substance in the WO upon the determination that the substance constitutes a real and present danger to the public drinking water. Upon making such determination, the Director shall notify any operator known to handle such substance. Upon notification the operator shall cease use of such substance in the WO and shall remove the prohibited substance from the WO within thirty days from the receipt of the notification from the Director.

(C) Except as provided for in Section 53.35(A) & (B), in the Well Head Operation District, no person shall knowingly handle any Regulated Substance that the Director

has prohibited from use in the WO. The Director shall maintain a list of Regulated Substances that are prohibited from use in the WO.

(D) In the Well Head Operation District the use of any Regulated Substances which are pest management chemicals, fertilizers, or other agricultural chemicals shall only be permitted when applied in accordance with Best Management Practices as indicated by soil tests, the OSU 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.

(E) The operator of any land in the Well Head Operation District not engaged in municipal water department activities shall notify the Director prior to the application of any Regulated Substances which are pest management chemicals, fertilizers, or other agricultural chemicals. The notification shall include at a minimum the name of the Regulated Substance, the amount to be applied, the location and area to be covered by the application, and the person responsible for the application. Upon completion of the application of the Regulated Substance, the operator shall notify the Director of any discrepancies between the actual application and the information provided prior to the application.

## ADMINISTRATION

### § 53.40 PUBLIC WATER SUPPLY PROTECTION AUTHORITIES.

(A) Application. If any activity or use of Regulated Substance is deemed by the Director to pose a real and present danger of contaminating surface and/or ground water which would normally enter the public water supply, the Director is authorized to:

- (1) Cause cessation of said activity or use of Regulated Substance;
- (2) Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or
- (3) Cause the provision of pollution control and/or abatement activities.

(B) Considerations. When considering the exercise of any of the above authorities or actions, the Director shall ensure that the City's public water supply is reasonably and adequately protected from contamination for the present and the future. The Director shall make every reasonable effort to coordinate and act in concert with other regulatory entities in the exercise of the above authorities. The Director may take into

consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

§ 53.41 WELL FIELD PROTECTION FUND.

(A) Establishment of the Well Field Protection Fund.

(1) The Well Field Protection Fund is hereby established to remediate pollution that could affect the public water supply and/or to pay the costs of acquiring interests in property necessary to reduce the risk of pollution of the public water supply. The Well Field Protection Fund can be used only for Well Field Protection Activities within the designated Well Field Protection Area.

(2) The City of Dayton Water Rates shall be amended to include a Well Field Protection Charge applicable to the entire rate base. This Charge is to generate revenue for the Well Field Protection Fund.

(3) All interest and payments resulting from Well Field Protection Fund activities will be paid to the Well Field Protection Fund. All directly related administrative costs of the Well Field Protection Fund are reimbursable from the Well Field Protection Fund.

(4) Costs for Well Field Protection activities advanced from the Water Fund or any other City source of funds are reimbursable from the Well Field Protection Fund.

(B) Well Field Protection Board.

(1) The Well Field Protection "Board" is hereby established. The Board shall consist of the Directors of the Departments of Water, Finance, and Planning & Community Development of the City of Dayton, and the County Administrator of Montgomery County. Each board member may appoint a designate to act on his behalf in circumstances where the Board member is unable to act personally. Each designee so appointed is subject to approval by the Board. Each designee shall serve for a period of two (2) years or until such time as the member appointing him is no longer a member of the Board. The Board shall determine the Well Field Protection Charge to be part of the City of Dayton Water Rates subject to approval by the City Commission.

(2) The Board shall reduce the Well Field Protection Charge if the Well Field Protection Fund exceeds the limitations as set forth in Section 53.41(C)(1) subject to approval by the City Commission.

(3) The Board shall, subject to approval by the City Commission, develop rules, regulations and procedures for the administration of the Well Field Protection Fund.

(C) Limitations.

(1) The Well Field Protection Fund shall be limited to \$10,000,000.00.

(2) Interests in private property will not be acquired with funding under the Well Field Protection Fund in order to compensate the owner for compliance with:

(a) a lawful order, requirement or declaration from any regulatory agency; or

(b) a requirement to obtain or maintain insurance coverage.

#### § 53.42 WELL FIELD PROTECTION APPEALS BOARD.

(A) Appeals. Any person may appeal an action of the Director made pursuant to Section 53.40 by filing with the City Manager a Notice of Appeal within twenty-one (21) days of said action and a statement of appeal within thirty (30) days of the date that the order being appealed was issued. A Notice of Appeal shall include as a minimum: name; address; telephone number; date; and a statement of intent to appeal. A Statement of Appeal shall include all information contained in the Notice of Appeal, a description of the nature of the appeal, and any pertinent documentation.

(B) Appeals Board. The Board of Well Field Protection Appeals is hereby established. Said Board shall consist of the Director of Community Development and four (4) designees to be named by the City Manager. Three (3) designees shall be representative of the business and environmental communities. One (1) designee shall be appointed upon the recommendation of the Priority Board Chairpersons' Council. No appointment shall be final unless approved by the Commission. The four (4) designees shall serve for a term of two (2) years. Said Board shall have the authority to take appeals, investigate matters related to said appeals, deny, uphold or otherwise modify or waive the Director's actions on a case by case basis. Said Board shall develop rules and regulations of operation consistent with its authorities, and subject to approval by the City Commission.

#### § 53.99 PENALTIES FOR VIOLATIONS

(A) A violation of the provisions of § 53.05 shall constitute a misdemeanor of the fourth degree, punishable as provided in § 130.99 of this code.

(B) Any person who violates or continues to violate any provisions other than § 53.05 beyond the time limit for compliance set forth by the Director, Notice of Violation or compliance schedule established by the Director, shall be subject to the following:

(1) A fine in an amount not to exceed Five Hundred Dollars (\$500.00).

(2) A subsequent violation of the same provision of this ordinance may constitute a misdemeanor of the first degree, punishable as provided in § 130.99 of this code by a fine of up to One Thousand Dollars (\$1,000) and a term of imprisonment of up to six (6) months. If the violation is a continuing one, each day of such violation shall constitute a separate violation.

(3) A fee in an amount not to exceed Five Hundred Dollars (\$500.00) to be paid into the Well Field Protection Fund.

(4) A subsequent violation of the same provision of this ordinance may constitute a misdemeanor of the first degree, punishable as provided in § 130.99 of this code and by a fee of up to One Thousand Dollars (\$1,000) to be paid into the Well Field Protection Fund and a term of imprisonment of up to six (6) months. If the violation is a continuing one, each day of such violation shall constitute a separate violation.

(5) The property where the violation has occurred may be subject to disconnection from the City's public drinking water supply.

(6) The City may seek injunctive relief to stop the violation.