

**CITY OF DAYTON WELL FIELD PROTECTION PROGRAM
PARTS OF CHAPTER 150 OF THE R.C.G.O., ZONING REGULATIONS**

**Section 150.363
Well Field Protection Districts**

150.363.1 Purposes.

The Well Field Protection Area is comprised of two Well Field Protection Districts: the Well Head Operation (WO) District and the Well Field Protection Overlay (WP) District. The WO and WP Districts are designed to safeguard the public health, safety, and welfare of citizens and institutions that are customers of the City of Dayton’s Department of Water by regulating the land use and the storage, handling, use and/or production of Regulated Substances within the Well Field Protection Area. The intent of this designation is to protect the community’s potable water supply against contamination.

- (A) The Well Head Operation (WO) District is mapped on property owned by the City at the location of any presently city-owned and operated or designated future or proposed public water supply well, recharge lagoon, or other related water facility.
- (B) The Well Field Protection Overlay (WP) District is mapped on land within the Well Field Protection Area, adjacent to the existing and proposed municipal water well fields within the City, not included within the WO District.

150.363.2 Permitted Uses.

- (A) Permitted Uses. See sub-section 150.300.2, Use Regulations.
- (B) Schedule 150.363.2 of Permitted Uses in the Well Head Operation District.

Schedule 150.363.2 PERMITTED USES IN WELL HEAD OPERATION DISTRICT	
	WO Well Head Operation¹
(1) Community Facilities/Institutions	1
(a) Community center	P
(b) Cultural institution	P
(c) Library	P
(d) Public safety facility	C

Schedule 150.363.2	
PERMITTED USES IN WELL HEAD OPERATION DISTRICT	
	WO
	Well Head Operation¹
(e) Utility substation/ distribution facility, indoor	C
(f) Utility substation/ distribution facility, outdoor	C
(2) Recreation/Open Space	1
(a) Arboretum/botanical garden	P
(b) Band shell	P
(c) Boat launch	P
(d) Dog park	P
(e) Golf course	P
(f) Greenhouse/conservatory	P
(g) Park/playground	P
(h) Recreation facility, indoor	P
(i) Recreation facility, outdoor	P
(j) Skate park	P
(k) Theater, outdoor	P
(3) Office/Retail	1
(4) Other	1
(a) Telecommunication facility	See Section 150.600
(b) Water supply/treatment facility	P
(5) Accessory Uses	1
(a) Outdoor storage, equipment/vehicles	P
(b) Outdoor storage, general materials	P
Notes to Schedule 150.363.2:	
¹ Uses in the WO District also require approval from the Director of the Water Department or his/her designee to insure conformance with the Water Department's standards.	
P = Use permitted by right ; C = Conditional use; A = Accessory use; Blank cell = Use is prohibited	

- (C) Uses Permitted by Right in the Well Field Protection Overlay District. Uses permitted by right within the WP District shall be those of the underlying district.
- (D) Conditional Uses in the Well Field Protection Overlay District. The conditional uses within the WP District shall be those of the underlying zoning district except:
- (1) The excavation, extraction, mining, or processing of sand, gravel, and limestone from the earth for resale remain as conditional uses in the WP District subject to Board of Zoning Appeals approval of an excavation and facilities plan that includes, but is not limited to:
 - (a) An existing site plan with topographic detail at two feet contour intervals, all planimetric information, depth to ground water and flood plain characteristics where applicable;
 - (b) The proposed extent and depth of excavation;
 - (c) Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material);
 - (d) Use and disposition of the spoil and/or overburden materials from the excavations including a landscaping and vegetation plan to stabilize any disturbed material;
 - (e) Surface drainage plan.
 - i. Drainage into on-site excavations from proximate off-site transportation facilities such as roadways and roadbeds and off-site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from off-site waterborne Regulated Substances.
 - ii. The final on-site grading shall minimize all surface drainage into the excavations.
 - (f) A post-excavation and operation land use plan.
 - (g) A security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on-site).
 - (2) The requirements of this section shall be in addition to any applicable regulations in this Section.

- (E) Prohibited Uses. The following uses are prohibited in the Well Field Protection Districts:
- (1) Grade and fill sites.
 - (2) Construction and demolition waste facility.
 - (3) Sanitary waste facility and/or sanitary waste processing facility.
 - (4) Hazardous waste facility and/or hazardous waste processing facility.
 - (5) Dry well.
 - (6) Underground storage tank.
- (F) Temporary Uses in the Well Field Protection Districts. No temporary uses shall be permitted in the Well Field Protection Districts that would result in the sum of the Regulated Substances being handled by all of the uses on the zoning lot to exceed the zoning lot's Total Maximum Daily Inventory, or to be of a type and quantity of Regulated Substances of such hazard that the Facility Hazard Potential Rating assigned to the zoning lot is exceeded.

150.363.3 Lot and Setback Requirements

- (A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Well Field Protection Districts are specified in Schedule 150.363.3 for the district in which the lot is located except as otherwise regulated in Section 150.500 for conditional uses.
- (B) Setback requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.363.3, measured from the appropriate lot line, except as otherwise regulated in section 150.500 for conditional uses. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code.
- (C) Schedule 150.363.3. Development Standards in the Well Field Protection Districts

Schedule 150.363.3 Development Standards in the Well Field Protection Districts		
	WO	WP
	Well Head Operation	Well Field Protection Overlay
(1) Lot Requirements	1	
(a) Minimum lot width	0	Shall be the same as underlying zoning district
(b) Minimum lot depth	0	Shall be the same as underlying zoning district
(c) Maximum lot coverage	60%	Shall be the same as underlying zoning district
(2) Minimum Setback	1	
(a) Front setback	10 feet	Shall be the same as underlying zoning district
(b) Side setback (unless specified below)	0	Shall be the same as underlying zoning district
(i) Adjacent to a Residential District	20 feet	
(c) Rear setback (unless specified below)	0	Shall be the same as underlying zoning district
(i) Adjacent to a Residential District	20 feet	
Notes to Schedule 150.363.3:		
¹ Municipal Water Department activities shall have no maximum lot coverage and no minimum setback requirements.		

150.363.4 Height Regulations

- (A) In the **WO** District, the maximum permitted height shall be forty (40) feet, except that Municipal Water Department structures and buildings shall have no maximum height.
- (B) In the **WP** District, the maximum height shall be the maximum height permitted in the underlying zoning district.

150.363.5 Groundwater Protection Standards in the Well Head Operation District

In the **WO** District, all uses of land, structures, and buildings shall comply with the standards set forth below:

- (A) Use and storage of Regulated Substances in conjunction with municipal water department activities shall not be restricted by this Section.
- (B) Except as provided in sub-section 150.363.5 (A), the use of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited so that the aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.
- (C) A limited exclusion from the provisions of sub-section 150.363.5 (B) is authorized for non-routine maintenance or repair of property or equipment. The use of Regulated Substances under this exclusion shall not exceed an aggregate of fifty (50) gallons or four hundred (400) pounds at any time.
- (D) A limited exclusion from the provisions of sub-section 150.363.5 (B) is authorized for Regulated Substances which are cleaning agents, provided however 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 aggregate inventory of such cleaning agents shall not exceed two hundred (200) gallons or one thousand six hundred (1,600) pounds at any time. In no case may Regulated Substances claimed under this exclusion include chlorinated solvents.
- (E) The Zoning Administrator shall determine the intensity of each use within this district utilizing the Total Maximum Daily Inventory and the Facility Hazard Potential Rating. The two values shall be derived from the Regulated Substance Activity Inventory Report(s) submitted by an existing or proposed new use in accordance with Section 53.30, and from data collected by the City of Dayton staff.

No use shall handle:

- (i) an amount of Regulated Substances in excess of its Total Maximum Daily Inventory; or,
 - (ii) a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.
- (F) The Zoning Administrator, as permitted under sub-section 150.110.2 (B) Powers and Duties of the Zoning Administrator, shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory or in an increase in the Facility Hazard Potential Rating assigned to the use.
 - (G) All uses within this district shall be connected to the public wastewater disposal system.

150.363.6 Groundwater Protection Standards in the Well Field Protection Overlay District

In the **WP** District, all uses of land, structures, and buildings shall comply with the standards set forth below:

- (A) Use of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited so that the aggregate of Regulated Substances in use shall not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.
- (B) A limited exclusion from the provisions of sub-section 150.363.6 (A) is authorized for non-routine maintenance or repair of property or equipment. The use of Regulated Substances under this exclusion shall not exceed an aggregate of fifty (50) gallons or four hundred (400) pounds at any time.
- (C) A limited exclusion from the provisions of sub-section 150.363.6 (A) is authorized for medical and research laboratory uses, provided that the Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds at any time.
- (D) A limited exclusion from the provisions of sub-section 150.363.6 (A) is authorized for Regulated Substances that are cleaning agents, provided that the 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 that the aggregate inventory of such cleaning agents shall not exceed two hundred (200) gallons or one thousand six hundred (1,600) pounds at any time. In no case may Regulated Substances claimed under this exclusion include chlorinated solvents.
- (E) The Zoning Administrator shall determine the intensity of each use within this district utilizing the Total Maximum Daily Inventory and the Facility Hazard Potential Rating. The two values shall be derived from the Regulated Substance Activity Inventory Report(s) submitted by an existing or proposed new use in accordance with Section 53.30, and from data collected through inspections.

No use shall handle:

- (i) an amount of Regulated Substances in excess of its Total Maximum Daily Inventory; or,
- (ii) a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.

- (F) The Zoning Administrator, as permitted under sub-section 150.110.2 (B) Powers and Duties of the Zoning Administrator, shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory or in an increase in the Facility Hazard Potential Rating assigned to the use.
- (G) A limited exclusion from the provisions of sub-section 150.363.6 (A) is authorized for on-site storage of a maximum one-year supply of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations, provided such substances are stored in standard approved packaging and such substances are applied to cropland 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 and the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from locations outside the Well Field Protection Overlay District. The on-site storage of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations as described above in excess of a one-year supply constitutes the use to be a storage facility. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory reporting, spill reporting and underground storage tank protection requirements of the Well Field Protection Overlay District.

150.363.7 Outdoor Activities

Outdoor activities in the Well Field Protection Overlay District shall be governed by the regulations contained in the underlying zoning district. Outdoor activities in the **WO** District shall be permitted only when associated with a principal use and in compliance with the regulations set forth below:

- (A) Outdoor Storage. Areas devoted to outdoor storage shall be designed to store materials in compliance with all City Fire Codes and shall be accessible to fire fighting equipment at all times.
- (B) Setback. All areas devoted to outdoor storage of goods and materials shall be setback fifteen (15) feet from all lot lines.
- (C) Fences and Walls. Fences and walls may be erected in the **WO** District. Chain link or barbed wire fences may be permitted, when the Plan Board concurs with the Director of Water that chain link or barbed wire fences are necessary to protect and provide adequate security for the City’s water system.

[Parts of some sections of the zoning code follow, those especially applicable to the Well Field Protection Program, with some surrounding material to show context.]

**Part of Section 150.140
Non-Conforming Uses, Buildings, Structures, and Lots**

150.140.4 Non-Conforming Use of Buildings and Land

A non-conforming use may continue so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (A) Maintenance.
- (B) Alteration or Reconstruction of a Building Occupied by Non-conforming Use.
 - (1) No building or structure occupied by a non-conforming use shall be improved or reconstructed except when the use is changed to a use permitted in the district in which it is located or upon prior approval of the Board of Zoning Appeals, and then only if the cumulative cost of the alteration, reconstruction, or improvement does not exceed 50% of the building's replacement value.
 - (2) Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of a building or other structure in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- (C) Expansion or Relocation of Non-conforming Use of Land. A non-conforming use of land shall not be physically enlarged, increased, extended, or relocated to a part of the lot that was not occupied by the use at the time it became non-conforming. No additional structures shall be constructed in connection with such non-conforming use.
- (D) Expanding Non-conforming Uses within Structures. Upon approval by the Zoning Administrator, a non-conforming use of an existing structure may be extended throughout any parts of a building that were arranged or designed for such use at the time of adoption or amendment to this Zoning Code, provided the intensity of the non-conforming use is not increased and no such use shall be extended to occupy any land outside such building not previously occupied by such non-conforming use. In determining whether intensity of use is increased, the Zoning Administrator shall consider the following:

- (1) Hours of operation;
 - (2) Volume and type of sales;
 - (3) Type of processing activity;
 - (4) Nature and location of storage;
 - (5) Traffic generation by volume, type, and characteristics;
 - (6) Parking and loading characteristics;
 - (7) Noise, smoke, odor, glare, vibration, radiation, and fumes; and,
 - (8) For uses in the **WO** or **WP** Districts, Total Maximum Daily Inventory and Facility Hazard Potential Rating.
- (E) Moving. No building or other structure that is devoted in whole or in part to a non-conforming use, shall be moved in whole or in part, to any other location on the same lot or any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being moved. Moreover, no non-conforming use of land shall be moved, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.
- (F) Change or Substitution of Use.
- (G) Discontinuance of Use.
- (H) Discontinuance of Non-conforming Accessory Uses.
- (I) Change from Non-conforming Use.
- (J) Damage or Destruction. In the event a building or structure that is occupied by a non-conforming use is destroyed by any means to the extent that more than 50% of its replacement value, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the use regulations of the zoning district in which the building or structure is located.
- (K) Existing Use Deemed Conditional Use; Permit Required For Change.
- (L) Exclusion for Certain Non-conforming Uses in the **WO** or **WP** Districts. In the **WO** or **WP** Districts, uses that are non-conforming solely because their Total Maximum Daily Inventory exceeds the limits established by sub-section 150.363.5 or 150.363.6, respectively, shall be excluded from the provisions of subsections 150.140.4 (B)(C)(E), and (J).

Part of Section 150.200
Definitions

150.200.2 Definitions

- (A) Words used in this Code are used in their ordinary English usage.
- (B) For the purpose of this Zoning Code, the following terms shall have the meaning herein indicated:
- (12) **Aquifer.** A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
- (141) **Motor vehicle, operable.** An operable motor vehicle is a motor vehicle whose engine can be started and the vehicle can be driven under its own power at least 100 yards immediately upon request, or within 24 hours of the initial request, and which does not have disabling damage as defined by R.C.G.O. Section 76.01(B)(2), as amended.
- (172) **Potable water.** Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- (180) **Recharge lagoon.** A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.
- (187) **Regulated substances.** The substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals that 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 WO Well Head Operation District and the WP 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).
- (239) **Underground storage tank.** 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:
- (a) 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.
 - (b) Surface impoundments, pits, ponds, or lagoons;
 - (c) Storm or waste water collection systems;
 - (d) Flow-through process tanks;
 - (e) 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;
 - (f) Septic tanks;
 - (g) Tanks used for storing heating fuel for consumptive use on the premises where stored provided the premises are single- or two-family residences.
- (251) **Well field.** A tract of land that contains a number of wells for supplying water.
- (252) **Well field protection area.** The surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

**Part of Section 150.400
Supplemental District Regulations**

150.430 Temporary Uses

150.430.1 Authorization

Temporary uses are permitted in each zoning district subject to the applicable regulations of the district in which the use is permitted. A zoning or occupancy certificate shall be obtained pursuant to sub-sections 150.135.1, Zoning Certificate or 150.135.7, Issuance of Occupancy Certificate.

150.430.2 Permitted Temporary Uses

The following temporary uses are permitted, subject to the limitations indicated:

- (L) Temporary Uses in the Well Field Protection Districts are further regulated by subsection 150.363.2 (F), Temporary Uses in the Well Field Protection Districts.

**Part of Section 150.600
Regulations for Wireless Telecommunication Facilities**

150.600.3 Permitted Locations

- (D) Every wireless telecommunication facility in the Well Head Operation District shall file a Regulated Substance Activity Inventory Report. No wireless telecommunication facility shall be permitted that exceeds the limits on the amount of Regulated Substances that can be handled in the Well Head Operation District as listed in sub-section 150.363.5.
- (E) Every wireless telecommunication facility in the Well Field Protection Overlay District shall file a Regulated Substance Activity Inventory Report. No wireless telecommunication facility shall be permitted which would result in the sum of the Regulated Substances being handled by all of the uses on the zoning lot to exceed the zoning lot's Total Maximum Daily Inventory, or to be of a type and quantity of Regulated Substances of such hazard that the Facility Hazard Potential Rating assigned to the zoning lot is exceeded.