

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO

RESOLUTION No. 15-04-28-01

**RESOLUTION TO ADOPT THE ETNA TOWNSHIP
WELLFIELD PROTECTION REGULATIONS**

The Board of Trustees of Etna Township, Licking County, Ohio met in a special meeting on April 28, 2015 at 81 Liberty Street with the following members present:

John Carlisle, President

Randy Foor, Vice-President

Jeff Johnson, Trustee

Trustee Carlisle moved the following:

WHEREAS, pursuant to Ohio Revised Code §3750.11(G), the Board of Trustees (the "Board") is empowered to establish and enforce requirements that provide for the protection of ground water resources that serve as a source of drinking water for its public water system and that are located within scientifically derived wellhead protection areas; and,

WHEREAS, the Board has established the Etna Township Wellfield Protection Regulations (the "Regulations") to safeguard the public health, safety, and welfare by establishing wellfield protection regulations to protect the public water supply of Etna Township, Licking County, Ohio; and,

WHEREAS, the Board desires to adopt the Regulations and establish an effective date of not less than thirty (30) days from adoption.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF ETNA TOWNSHIP, LICKING COUNTY, OHIO, THAT THE FOLLOWING RESOLUTION BE AND IT HEREBY IS ADOPTED:

Section 1. That the Board of Trustees adopts the Etna Township Wellfield Protection Regulations (attached hereto as "Exhibit 1").

Section 2. That the Board of Trustees sets the effective date of the Etna Township Wellfield Protection Regulations as June 1, 2015.

Section 3. It is found and determined that all formal actions of this Board concerning and pertaining to the adoption of this Resolution were taken in an open meeting of this Board, and that all deliberations of the Board, and any of its committees, that resulted in such formal action were in meetings open to the public, in accordance with all legal requirements including Ohio Revised Code §121.22.

Section 4. This Resolution shall take effect at the earliest time provided by law.

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Trustee Johnson seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

YEAS: Johnson * Foor * Carlisle

NAYS: _____ * _____ *

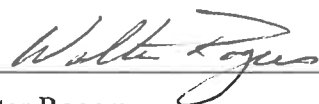
The motion carried and the Resolution was adopted.

Attest: 
Walter Rogers, Fiscal Officer

CERTIFICATE

State of Ohio, Licking County

I, the undersigned Fiscal Officer of Etna Township, Licking County, Ohio, hereby certify that the foregoing Resolution Number 15-04-28-01 is a true and complete copy of the Resolution adopted by a majority of the full membership of the Board of Trustees of Etna Township at its special meeting held on April 28, 2015 as was recorded in the official proceedings of the Board.


Walter Rogers
Etna Township Fiscal Officer

Etna Township Wellfield Protection Regulations

EXHIBIT 1
RESOLUTION 15-04-28-01

ETNA TOWNSHIP BOARD OF TRUSTEES
LICKING COUNTY, OHIO

Etna Township Wellfield Protection Regulations

1) Purpose: The purpose of these regulations is to safeguard the public health, safety, and welfare by establishing wellfield protection regulations to protect the public water supply of Etna Township, Licking County, Ohio (hereinafter the "Township"). This shall be accomplished by implementing regulations that control the following activities in defined wellfield protection areas:

- (a) Use of regulated or potentially damaging substances; and
- (b) Mining of industrial materials.

These activities shall be controlled within specifically defined 1-year and 5-year time of travel areas for wellfield protection in and around any public wellfield located within the Township.

These regulations are intended to provide for the protection and availability of existing and future potable water supply by instituting rational and objective standards and criteria for the control of toxic, hazardous or any other substances or activity which adversely impact the groundwater supply within specifically defined geographic areas located within the Township, thereby enhancing the protection of the public potable water supply.

2) Authority: The Etna Township Board of Trustees (hereinafter the "Board") may, pursuant to Ohio Revised Code §3750.11 (G), establish and enforce requirements that provide for the protection of ground water resources that serve as a source of drinking water for public water systems and that are located within scientifically derived wellhead protection areas.

3) Scope: The provisions of these regulations shall be effective within the Township limits. Nothing contained in this chapter 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 these regulations.

4) Administration: Except as otherwise provided herein, the Township Administrator, his authorized representative, or any other designee of the Board, shall administer, implement, and enforce the provisions of these regulations. This includes, but is not limited to, the Southwest Licking Community Water and Sewer District and the West Licking Joint Fire District.

5) Definitions:

As used in the Wellfield Protection Regulations:

- (a) "Above-ground tank" means a device meeting the definition of "tank" in this rule, but which is not an underground storage tank as defined in Section 5 of these regulations.
- (b) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.
- (c) "Board" means the Board of Trustees of Etna Township, Licking County, Ohio.
- (d) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendment and Reauthorization Act, 42 U.S.C. 9601 et seq.
- (e) "Certification" means a statement of professional opinion based upon knowledge and belief.
- (f) "Day" means a calendar day.
- (g) "District" means the Southwest Licking Community Water and Sewer District.
- (h) "District Board" means the Board of Trustees of the Southwest Licking Community Water and Sewer District.

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- (i) “EAEE” or “Environmental Assessment of Estimated Effect” means an environmental assessment of estimated effect as required by Section 9 hereof.
- (j) “Environmental Audit” means an environmental audit as required by Section 9 hereof.
- (k) “Facility” means any premises located in a wellfield protection area, the use of which could impact the use of the underlying or adjacent aquifer for public drinking water supply. This definition includes, but is not limited to, buildings, storage areas, mining or processing operations, farming operations and related activities.
- (l) “General Manager” means the General Manager of the Southwest Licking Community Water and Sewer District.
- (m) “Ground water” means water below the land surface in a zone of saturation.
- (n) “Hazardous waste” means a hazardous waste as defined in Rule 3745-51-03 of the Ohio Administrative Code or its successors.
- (o) “Journal” means the record or document into which all final actions of the Township Administrator are entered.
- (p) “Mineral processing waste” means the sands, fine sands, silts, and clays which are residual materials generated from onsite mineral processing activities.
- (q) “Month” means a calendar month.
- (r) “NRCA” means no required corrective action.
- (s) “Operator” means any person who is directly responsible for the overall operation of a facility.
- (t) “OSHA” means the Occupational Safety and Health Act, 29 U.S.C. 651 et seq.
- (u) “Owner” means the person who owns a facility or part of a facility.
- (v) “Person” means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, the state, a municipality, commission, political subdivision of the state, or any interstate body.
- (w) “RCRA” or “Resource Conservation and Recovery Act” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.
- (x) “SDWA” means the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.
- (y) “Spill” means the spilling, leaking, pumping, emitting, or dumping of regulated substances or materials which, when spilled, become regulated substances into or on any land or water.
- (z) “State” means the State of Ohio.
- (aa) “Storage” means the holding of regulated substances for a temporary period, at the end of which the regulated substance is treated, disposed of, or stored elsewhere.
- (bb) “Tank” means a stationary device, designed to contain an accumulation of regulated substances which is constructed primarily of non-earthen material (e.g., wood, concrete, steel, plastic) which provides a structural support.

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- (cc) "Tank system" means a regulated substances storage or treatment tank and its associated ancillary equipment and containment system.
- (dd) "Township Administrator" means the township administrator of Etna Township, Licking County, Ohio, his authorized representative, or any other designee of the Board.
- (ee) "TSCA" means the Toxic Substance Control Act, as amended, 15 U.S.C. 2601 et seq.
- (ff) "UST" or "underground storage tank" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground.
- (gg) "Use" means the handling, placement, deposit, production, transportation, processing, transfer, treatment, storage, disposal, maintenance, or installation of regulated substances.
- (hh) "User" means any person who uses regulated substances.
- (ii) "Waste" means a waste as defined in Rule 3745-51-02 of the Ohio Administrative Code or its successors. Mining overburden which remains on-site shall not be considered waste for purposes of this .
- (jj) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from collapsing.
- (kk) "WPI" or "Wellfield Protection Area I" means the land area within 1-year time of travel of the outermost wall or casing of any present or future water supply well located within the Township.
- (ll) "WPII" or "Wellfield Protection Area II" means the land area surrounding any public water supply wellfield not included in WPI which is delineated by the five-year travel time contour based on the groundwater gradients of the area as designated on the Township Administrator's hydrogeologic map.
- (mm) WPI and WPII are hereinafter sometimes referred to as the 1-year or 5-year time of travel zones.

6) Maps of Wellfield Protection Areas; Applicability: The Township Administrator shall maintain hydrogeologic maps designating areas of protection in WPI and WPII where groundwater supplies are vulnerable to contamination and there is a level of risk that contaminants can be transported or otherwise find a way into present and future public potable water supply wells and wellfields located within the Township.

These maps shall clearly designate the location of the scientifically derived WPI and WPII. The Board shall approve the areas initially designated as WPI and WPII on the maps and any modification of such designations thereafter. Designations of WPI and WPII areas shall not be valid without approval of the public water supplier.

Modifications shall be subject to public notice and appeal to the Board as provided in Section 14 of these Regulations. Such maps shall be available for inspection at all times during normal business hours.

It is the responsibility of any person owning property and/or owning or operating a business to make the determination of the applicability of these regulations as it pertains to the property and/or business under said person's ownership or operation and failure to do so shall not excuse any violations of these regulations.

7) Regulated Substances: Regulated substances are chemicals and mixtures of chemicals which are hereby deemed to be health hazards. The Board shall establish and maintain a list of these substances subject to review and modification.

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- (a) Chemicals which are regulated by SDWA, TSCA, RCRA, OSHA, CERCLA, or other state and/or federal environmental laws and regulations, or 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, obnoxious substances causing odor and taste problems, 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 1% 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 0.1% or greater than the composition on a weight basis.
- (d) Ingredients of mixtures prepared within a wellfield protection area, in cases where such ingredients are health hazards, except those ingredients which comprise less than 0.1% of the mixture (on a weight per unit weight basis) if carcinogenic, or less than 1% 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).
- (f) Pesticides and herbicides.
- (g) Other substances which, in the judgment of the Board, pose a potential health hazard to the water supplies or to human health.

8) Wellfield Protection Areas: Wellfield Protection Areas shall be scientifically determined, instituted, and administered in accordance with the Rules and Regulations of the District, provided designations of Wellfield Protection Areas are contingent on the Board's approval. The extent of such Wellfield Protection Areas shall reflect the descriptions in Section 6 and shall be shown on maps maintained by the Township Administrator (Exhibit A).

If a portion of a facility is located within a Wellfield Protection Area, the entire facility shall be governed by these regulations.

9) Prohibitions and Restrictions Within Wellfield Protection Areas:

- (a) No person shall use any regulated substance in any Wellfield Protection Area in violation of a law, statute, ordinance, rule or regulation.
- (b) An existing use or approved use of any regulated substance within Wellfield Protection Areas shall not be increased except in accordance with these regulations.
- (c) Wellfield Protection Area I
 - (1) No person other than the owner of the property or persons acting with the consent of the owner shall enter Wellfield Protection Area I; provided, however, authorized employees or agents of the Township, District, environmental or regulatory agency representatives and law enforcement and emergency officials with a demonstrable need for access may be allowed to enter Wellfield Protection Area I.
 - (2) No person shall use any regulated substance in Wellfield Protection Area I for purposes other than public water utility purposes.
- (d) Wellfield Protection Area: Except as provided in Subsections (c), (d), and (e) of this section and, in Section 10 hereof, no person shall use a regulated substance in a Wellfield Protection Area.

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If the use of the regulated substance has been approved by the Township Administrator, or the regulated substance has been used in a Wellfield Protection Area prior to the effective date of these Regulations, the user may use the regulated substance if it complies with the following procedures:

- (1) Within 180 days of the effective date of this regulation, or approval by the Township Administrator, all users of regulated substances in a Wellfield Protection Area shall submit an Environmental Audit of their facility. The Environmental Audit will address the following points:
 - A physical description of the facility which will include a site plan, which at a minimum will clearly define the location and boundaries of the facility;
 - The exact type, amount, physical characteristics, and known health effects of any regulated substances used;
 - The potential for release of regulated substances to the surface soil, subsoil, and/or groundwater;
 - Any known prior releases of regulated substances to the surface soil, subsoil, and/or groundwater;
 - Recommendations for corrective actions if any prior releases as described in subparagraph above have occurred; and
 - Plans and schedules for implementation of any recommended corrective actions.

The Environmental Audit will be conducted by an independent, licensed engineering firm or licensed engineer not employed by the user and qualified to conduct such investigation. The user may submit an Environmental Audit conducted by a licensed engineer employed by the user, who is qualified to conduct such investigation; provided, however, the Township Administrator reserves the right to have an independent Environmental Audit conducted at the user's expense. The Township Administrator will complete his review of the Environmental Audit and send his comments, if any, within 6 months of receipt of the Environmental Audit.

- (2) Based on the results of the user's Environmental Audit or an independent Environmental Audit conducted by the Township Administrator, the Township Administrator will, if appropriate, issue a notice of Required Corrective Action. The Township Administrator shall issue such a notice of Required Corrective Action within 6 months of his receipt of the Environmental Audit. If the Township Administrator does not issue the corrective action notice within the 6 month period, the Township Administrator shall have the burden of proving that such a required corrective action is necessary.
- (3) The user will have 6 months after the issuance of the Required Corrective Action notice in which to implement the required corrective action. If the required corrective action has not been implemented within this time, the Township Administrator may conduct the remedial work at the user's expense. Failure to comply with the Required Corrective Action notice will be subject to the penalties in Section 21 hereof. In addition, the facility will be classified as non-conforming, and any future use by the owner or other future owners or users of any portion of the property will be required to conform as a non-user of regulated substances, with the exceptions being those outlined in subsections above of this Section, or in accordance with Section .
- (4) If the user has received the prior approval of the Township Administrator for the use of the regulated substances or, if the Environmental Audit has been submitted or is in the process of being submitted in accordance with this Subsection (d) and the required corrective action has been completed or in the process of being completed in accordance with the Required Corrective Action

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plan, the user may use regulated substances at the level approved by the Township Administrator or the level in effect at the time these regulations become effective. If the user intends to expand the facility to use additional quantities and/or types of regulated substances consistent with the nature of the business which was approved by the Township Administrator or was being conducted at the facilities when these regulations became effective, the user shall submit an Environmental Assessment of Estimated Effect. The Environmental Assessment of Effect shall contain:

- A statement of the estimated increase in quantity of regulated substances being considered, the exact type, amount, physical characteristics, and known health effects of the regulated substances;
- An assessment of the potential for release of the regulated substances as the result of any change in the use or approved use and its potential health effects on the affected population.

An increase in the quantity or a change in the character of an approved or existing use of the regulated substances will require the approval of the Environmental Assessment of Estimated Effect by the Township Administrator. The Township Administrator shall act on the EAEE within 60 days of its receipt by him.

- (5) Those facilities which are in compliance with the provisions of these Regulations will be issued a compliance letter. This letter will be subject to yearly renewal. Renewal will be based on inspections conducted by the Township Administrator or his authorized representative.
 - (6) Unless an underground storage tank or pipeline is replaced with a secondarily contained and monitored installation within a 1-year period, which shall substantially eliminate any risk of leakage or other loss of inventory from the underground storage tank or pipeline, no person shall use an underground storage tank or pipeline for the storage or use of regulated substances in Wellfield Protection Area II as of 1-year from the effective date of this Section. Said underground storage tank or pipeline system proposal shall be submitted to the Township Administrator for approval prior to the installation and such submission shall be in accordance with Section 10 of these regulations. The Township Administrator shall act on such a proposal within 60 days of its receipt by him.
- (e) Exclusions: Notwithstanding any other provisions to the contrary, exclusions set forth in this Subsection (e) shall apply; and provided further that any spill, discharge or mishandling shall be subject to the provisions of Section 12(b) of these regulations. Any exclusion granted herein shall not remove or limit the liability and responsibility of any person or activity.
- (1) A limited exclusion from the prohibitions and requirements of these regulations is hereby authorized for incidental use of regulated substances in Wellfield Protection Area II in the following amounts:
 - The aggregate of regulated substances in use may not exceed 2 pints or 2 pounds, whichever is less, at any time;
 - The total use of regulated substances may not exceed 10 gallons or 80 pounds, whichever is less, at any time.
 - (2) A limited exclusion from the prohibitions and requirements of these regulations is hereby authorized for non-routine maintenance or repair of property or equipment in Wellfield Protection Area II involving the following amounts:

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- The aggregate of regulated substances in use may not exceed 10 gallons or 80 pounds, whichever is less, at any time;
 - The total use of regulated substances may not exceed 50 gallons or 400 pounds in any 12 month period.
- (3) An exclusion is hereby authorized for retail activities in Wellfield Protection Area II, provided said activities use any regulated substance for resale in their original unopened containers of 2 gallons each or 16 pounds each, or less, and having a maximum aggregate inventory of regulated substances not exceeding 250 gallons or 2,000 pounds at any time. Any person claiming such exclusion shall submit an Environmental Audit to the Township Administrator within 180 days of the effective date of these regulations or the date it starts to use the regulated substance.
- (4) An exclusion is hereby authorized for the transportation of regulated substances through Wellfield Protection Area II, provided, however, that the transporting vehicle is in compliance with applicable federal and state law and regulations, and provided that the regulated substances are fueling the transporting vehicle or the transporting vehicle is in continuous transit, making delivery, or is stopped for periods of time not to exceed 24 hours.
- (5) An exclusion is hereby authorized for the use of oil, fuel, or petroleum lubricants in the operation of motor vehicles, farm equipment, and construction equipment in both Wellfield Protection Area I and Wellfield Protection Area II and for mining equipment only in Wellfield Protection Area II to the limited extent that these substances are being used by the motor vehicle or equipment while operating or are contained within reservoirs or tanks of the motor vehicle or equipment when not in operation.
- (6) An exclusion is hereby authorized for the use of oil, fuel, or petroleum lubricants for the refueling and maintenance of farm equipment, construction equipment, and mining equipment only in Wellfield Protection Area II to the limited extent that these substances are necessary for a day's refueling and maintenance of the substances in quantities which are unreasonably in excess of what is needed for a day's refueling and maintenance of equipment is not authorized by this exclusion. A Spill Prevention Countermeasure and Control (SPCC) plan as described in Section 12 (b)(3) shall be submitted to and approved by the Township Administrator prior to any use of this exception.
- (7) An exclusion is hereby authorized for the use of agricultural products for agricultural purposes in both Wellfield Protection Area I and Wellfield Protection Area II to the limited extent that all agricultural products are used in accordance with the manufacturer's specifications.

10 Storage Tanks: No above-ground or underground storage tank which contains, or has contained in the past, a regulated substance shall be used in Wellfield Protection Area I or Wellfield Protection Area II without approval of the Township Administrator, which approval shall be in accordance with the standards established by federal, state and local laws, regulations or orders. The Township Administrator shall determine whether the tanks meet those standards and satisfy the requirements of Subsections (a) and (b) below and shall make such determination within 60 days of the submission of a proposal. A registered professional engineer shall certify that all tank systems are in compliance with applicable federal and/or state regulations governing such tank systems, which system shall include:

- (a) Adequate facilities to monitor and prevent regulated substances from leaching into the subsurfaces and impacting the groundwater quality;
- (b) A containment berm to retain 200% of the volume of the regulated substance contained in any above-ground storage tank and secondary containment systems for underground storage tanks.

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The engineering plans shall show the location of all storage tanks to be used for the storage of the regulated substances, and how the storage tanks will be developed to contain spills and prevent groundwater contamination. These materials shall be contained in the Environmental Audit to be provided pursuant to Section 9 hereof.

11 Mining of Industrial Minerals in a Restricted Area: No person shall use a facility to mine industrial minerals in a Wellfield Protection Area without first obtaining approval from the Township Administrator. Any person proposing to mine industrial minerals shall submit to the Township Administrator a proposal to mine industrial minerals and submit necessary plans, specifications, and information relating to the facility for the Township Administrator's approval. The Township Administrator shall act upon a proposal for a permit to mine within 60 days of receipt of such proposal. A denial of the proposal shall be immediately appealable to the Board.

Such detail plans, specifications, and information shall be drawn up in a manner acceptable to the Township Administrator or his authorized representative in detail sufficient to allow clear understanding and intelligent review thereof, and to provide assurance that the site or facility is designed and will be operated in accordance with these regulations. The method of operation of the facility shall be described by the detailed plans and specifications, and a report with information in such degree of detail and clarity as to be readily understandable by operating personnel at the facility.

- (a) The information contained in Subparagraphs (1) through (10) below shall be submitted with the permit application:
- (1) Copies of the approved state mining permit application, all supporting documents submitted to the state and pertinent correspondence with the state during the process of permit approval. Copies of any application for variance, modification, amendment, notices of violation, annual and final maps, and any information submitted to the state at any time during and after the mining permit is issued by the must also be submitted to the immediately.
 - (2) Such identification information as:
 - The nature of the mining operation;
 - The precise geographical location and boundaries of the mining operation which shall be indicated on a 7 ½ minute USGS topographical map and by a legal description;
 - The name and address of the owner(s) of the land to be used for mining; and
 - The name and address of the person who prepared the plans.
 - (3) Such site information as:
 - All land owned, leased, or proposed to be purchased or leased for the mining operation;
 - All existing land uses on or within 1,000 feet of the mining operation;
 - All public roads, access roads, communities, and habitable buildings on or within 1,000 feet of the mining operation;
 - The location of all existing or proposed maintenance, weighing, storage, processing or other facilities or buildings;
 - The location of existing or proposed utilities;
 - The location of any water well within 2,000 feet of that portion of the site where above-ground or underground regulated substances storage tanks are to be installed;

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- The limits of the regulatory flood plain, if applicable, and the facilities proposed for flood protection;
- All fencing, gates, and natural or other screening on the site;
- Existing topography, topography of the area with 1,000 feet of the site, maximum depths of excavations, and final topography, with clear indications showing all portions of the site where processed and residential materials are to be deposited;
- Plans for the disposal of lines in a Wellfield Protection Area, including an annual disposal plan; and
- Longitudinal and transverse hydrostratigraphic cross sections of the proposed mining pits showing elevations of uppermost aquifer. In the event a clay layer is found to be present below the depth to which the industrial minerals are mined, show how ground water recharge and flow will be protected.

(4) Such hydrogeologic and surface drainage information as:

- The direction and flow and points of concentration of all surface waters on the site; and
- A complete log (description) of each boring made during the exploratory program with appropriate description and explanation in an accompanying report, showing:
 - (i.) The location, depth, surface elevation, and water level measurements of all borings; and
 - (ii.) Textural classification (Unified Soil Classification System – USCS); and
 - (iii.) Grain size distribution curves for representative samples of each group of borings of similar soil composition; and
 - (iv.) Atterberg limits, moisture content, and coefficient of permeability, based on field and/or laboratory determinations; and
- Depth, lithology (physical character), and hydrologic characteristics of the bedrock formations encountered during the boring operations and/or which outcrop on or adjacent to the site (may be presented in an accompanying report); and
- The following information relating to the ground water (may be shown in accompanying report)
 - (i.) The depth to maximum elevation of ground water; and
 - (ii.) Direction of the flow of ground water; and
 - (iii.) Analysis by an EPA certified laboratory of such a number of samples from such a number of wells as the Township Administrator or his authorized representative deems necessary to determine existing groundwater quality and monitor future ground water quality in the area:

Field Testing Parameters

Temperature (measured at the time sample is collected); and
Conductivity; and
pH; and

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Laboratory Testing Parameters

Total Alkalinity; and
Total Acidity; and
Total Dissolved Solids (TDS); and
Iron (Fe); and
Volatile Organic Compounds (VOCs), USEPA or as specified by the
Township Administrator; and
Total Organic Carbon (TOC); and
Total Organic Halogens (TOX)

All monitoring wells installed pursuant to this Regulation, shall conform to Chapter 3745-9 of the Regulations of the Ohio EPA. The Township shall have access to the ground water monitoring wells for inspection, sampling, and other monitoring purposes. The location of all monitoring wells shall be shown on the engineering plans submitted with the proposal.

- (5) Engineering plans showing the estimated timing and sequence of mining operation, longitudinal and cross sections of proposed mining pits and other parts of the entire land area which is proposed to be used for mining, including elevation of uppermost aquifer and hydrostratigraphy. The plans shall also show the location of all above-ground and underground storage tanks and comply with Section 10 hereof.
- (6) A geotechnical laboratory testing program defining the physical parameters of the cohesive and noncohesive soils excavated during the mining operation and drilling work. This shall include: soil moisture (ASTM method D-2216-80), Atterberg limits (ASTM method D-422-63) on bore holes drilled in the proposal area to determine the amount of waste likely to be generated during mineral processing and washing operations. No mineral processing waste shall be disposed of in the mine pit, except the Township Administrator may allow the disposal of mineral processing water in one of the mine pits provided the area of the mine pit to be used does not exceed 10% of the total land area of the site and the plans for such on-site disposal are approved in writing by the Township Administrator prior to use of the pit for disposal. Preferably all mineral processing waste will be disposed of off-site. No person shall allow any other waste material from the site or from off-site to be disposed of in a mine pit or at any other location on-site.
- (7) Such operation information as:
 - The mode and sequence of mining operation, including equipment to be used, showing precisely how the minerals will be mined and how the pit remaining after the mining operation is completed will be maintained to minimize silting and consequent adverse impact on the ground water recharge capacity of the area.
 - Such equipment information as:
 - (i.) Types of equipment to be used to operate and maintain the facility and to maintain the rechargeability of the mine pit; and
 - (ii.) Hours of operation; and
- (8) Such closure information as:
 - How the portion of the facility where minerals have been mined will be maintained in order to minimize any further deposits of silty or clayey lines.
 - How the site will be closed. This information shall include descriptions of:

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- (i.) Means by which access to the site will be limited; and
 - (ii.) Provisions for corrective measures in case of settling of silty and clayey lines in the mine pits in excess of what is allowed pursuant to this Section.
 - (iii.) Intended use of the site after closure, if known.
- (9) A notarized statement that, to the best of the knowledge of the person who prepared the plans, the information on the detailed plans and specifications are true and accurate.
- (10) Proposal for mining permit shall be signed:
- In the case of corporations, by the corporate office having direct responsibility for the facility; or
 - In the case of organizations other than corporations, by an equivalent responsible individual; or
 - In all other cases, by the operator.

The signature shall constitute an agreement by the entity that is responsible for compliance with this Section and these regulations.

- (b) If detailed plans, specifications, and information submitted to the Township Administrator or his authorized representative do not conform to the requirements for maintaining ground water recharge and quality, the Township Administrator or his authorized representative may, within 60 days of receipt thereof, notify the person submitting said plans of the nature of the deficiency, and of the Township Administrator's refusal to consider the plans until the deficiency is rectified. If the Township Administrator is satisfied that, notwithstanding their deficiency, the detailed plans, specifications, and information are sufficient to determine whether the mining operation and facilities would adversely impact the wellfield, he shall consider and act upon such detailed plans, specifications, and information notwithstanding their deficiency.
- (c) If the Township Administrator or his authorized representative determines that information in addition to that required above is necessary, he may require that the person submitting the plans supply such information as a precondition to further consideration of the detailed plans, specifications, and information.
- (d) The Township Administrator shall not approve any detailed plans, specifications, and information, including information regarding the handling of mining lines, unless he determines that the mining operation will not adversely impact the ground water recharge capacity of the aquifer and the quality of the ground water.
- (e) Information submitted pursuant to this Section shall be confidential, to the extent allowable under the Ohio Public Records Law, with this information being available as needed to employees and agents of the Township.
- (f) All proposals shall be submitted at least 60 days before the commencement of mining operations; provided, however, if a user is conducting a mining operation which has been approved by the Township Administrator, it shall not be required to submit a proposal. A proposal fee of \$2,500.00 shall be submitted with each proposal made under this Section. In addition, on or before January 31st of each calendar year, the mining operator shall pay an annual inspection fee of \$4,000.00. Users who have paid all proposal and inspection fees for a facility pursuant to this Section shall not be required to pay any additional fees established pursuant to Section 17 hereof.

12 Reporting Requirements:

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(a) Reports Generally:

- (1) Applicability:** Any person, facility, or activity located within a Wellfield Protection Area (WPI or WPIL) shall be in compliance with all provisions of this Section within 180 days of the effective date of this Section, except:

 - Owners and occupants of single or duplex residences are expressly excluded from the reporting requirements of this Section if such use and occupants are otherwise in compliance with the provisions of these regulations;
 - As provided under paragraph (e) of Section
- (2) Reports:** Any owner or occupant of any land within a Wellfield Protection Area shall file applicable reports with the Township Administrator within 180 days of the effective date of this Section, except as provided in (a)(1) of this Section.

 - The report filed by the owner or occupant shall contain information deemed necessary by the Township Administrator for determination of compliance with these regulations, other Township Regulations, and Ohio and Federal laws and regulations. Such information shall be provided by completion of an Environmental Audit and, when required, and Environmental Assessment of Estimated Effect. The scope of information for these reports shall be designed and supplied by the public water supplier.
 - Information contained in any submittal and designated by a person or activity as confidential shall only be considered confidential to the extent allowable under the Ohio Public Records Law and other applicable state and federal laws.
 - Any person who owns, operates or occupies more than one facility in a Wellfield Protection Area must make separate information submittals for each facility.
 - Operators of industrial mineral mining facilities who are users of regulated substances shall comply with these reporting requirements, as well as the provisions of Section 11.
- (3) Falsifying information:** No person shall make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these regulations, or falsify, tamper with or render inaccurate any monitoring device or method required under this Section.
- (4) Retention of records:** Any reports or records compiled or submitted pursuant to this Section shall be maintained by the user for a minimum of 6 years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.

(b) Reporting of Spills, Leaks or Discharges:

- (1)** Any person with direct knowledge of a spill, leak or discharge of a regulated substance within a Wellfield Protection Area shall, if such spill, leak or discharge escapes containment, contacts a non-pervious ground surface and is not immediately and completely remediated, shall give notice to the Township Administrator by telephone. The notification shall be made within 3 hours of the incident and 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.
- (2)** Any entity or person who spills, leaks or discharges a regulated substance(s) shall be liable for the expense, loss or damage incurred by the Township in response to such an incident, including

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engineer fees, attorney fees, and any other costs incurred, in addition to the amount of any fines imposed on account thereof under local, state, and federal laws; said 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 not later than 180 days after the incident and submit a complete report for the Township Administrator's approval incorporating a detailed history of the spill, corrective actions taken and a plan for prevention of such incidents.

- (3) Any person or activity located in a Wellfield Protection Area shall provide spill prevention countermeasure and control, and other pollution abatement methods or facilities sufficient to adequately minimize or eliminate the accidental discharge of spills of any regulated substances. Such control and abatement methods and facilities shall be provided and maintained at said person's cost and expense. Detailed plans showing facilities and operating procedures sufficient to provide this protection shall be submitted to the Township Administrator as a component of the Environmental Assessment of Estimated Effect report for review and approval by the Township Administrator prior to the construction of facilities. Review and approval by the Township Administrator of said plans and operating procedures shall not relieve the user from the responsibility to modify the facilities as necessary to meet the requirements of these regulations.
- (4) Signs shall be permanently posted by owners or operators in conspicuous places on the premises in locations where regulated substances are, or may be used, advising employees whom to call in the event of a spill or accidental discharge. All persons who may cause or discover such an incident shall be trained in emergency procedures by the owner or operator.

13 Public Water Supply Protection:

- (a) If any activity or regulated substance poses a risk to or may have a deleterious effect directly or indirectly upon the public water supply or wellfields or when deemed by the public water supplier to be in the best interest of managing the water utility, the Township Administrator is authorized to do any or all of the following:
 - (1) Require pollution or contaminant control and abatement;
 - (2) Require payment to cover the cost of monitoring, controlling or otherwise removing any such pollutant, contaminant or obstruction;
 - (3) Require the development of compliance schedules to implement corrective actions;
 - (4) Require the installation of monitoring facilities and the submission of reports sufficient to ascertain any threat or risk due to any regulated substances, pollutants or contaminants or other activities and to determine compliance status relative to these regulations;
 - (5) Carry out inspection, surveillance, and monitoring on public or private property sufficient to determine compliance with these regulations;
 - (6) Pursue any actions that are legally available, such as administrative remedies or enforcement actions including, but not limited to injunctive relief, and penalties as specified in Section 21;
 - (7) Require a person to pay the costs of enforcement where a person has been found to be in violation of these regulations. These costs may include, but are not limited to the recovery of all reasonable administrative and legal expenses related to the enforcement activity;
 - (8) Order cessation of any use or activity which may create hazards or may have deleterious effects on the water supply or facilities; or

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- (9) Issue orders establishing land use restrictions or rates of discharge or otherwise controlling the use of any regulated substances or pollutant to ensure compliance with these regulations;
- (10) Order remedial actions.
- (b) When considering the exercise of any of the above powers or actions, the Township Administrator shall ensure that the Township's public water supply is reasonably and adequately protected from contamination or obstruction for the present and the future. The Township Administrator may take into consideration any evidence presented by the entity regarding cost-effectiveness and the economic impact imposed by the requirements or actions.
- (c) No governmental subdivision, commission, office, agency, employee or board shall approve, grant or issue zoning or conditional use permits for any land use within a Wellfield Protection Area until prior written approval of the Township Administrator has been obtained. The issuance of any permit, license or other instrument in violation of this paragraph shall not relieve any person from compliance with these regulations.

14 Public Notice and Appeals:

- (a) Unless a different time is provided by these regulations, the Township Administrator shall take the appropriate action within 60 days after submission of the request to him. The Township Administrator shall maintain a journal or journals into which shall be entered all actions or decisions that the Township Administrator desires to make final and shall notify by certified or registered mail any party adversely affected by his action or decision. All decisions of the Township Administrator shall be appealable to the Board. All actions of the Township Administrator shall be reported to the Board.
- (b) The Board shall have the authority to take appeals, investigate matters related to said appeals, deny, uphold or otherwise modify or waive actions or requirements on a case by case basis.
- (c) Any person adversely affected may appeal an action of the Township Administrator made pursuant to these regulations by filing with the Board a Notice of Appeal within 14 days of said action and a Statement of Appeal within 30 days of the date the action appealed from was journalized. 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. All filings required herein shall be made at the office of the Township Administrator.
- (d) The Board shall conduct an adjudication hearing within 45 days of the receipt of the Statement of Appeal. The Board shall schedule an adjudication hearing and give public notice of this hearing and written notice to the parties involved at least 14 days in advance of the adjudication hearing. The Board shall issue a written decision on the appeal within 5 days of the adjudication hearing. All interested parties, who submit requests in writing, will receive written notification of the decision of the Board.
- (e) Only those parties adversely affected by the Township Administrator's action shall be parties to the adjudication hearing before the Board. The Board may require the parties to prepare briefs covering such matters as the Board may specify.
- (f) A recording of the proceedings shall be prepared and maintained by the Township Administrator, with the cost being charged to the non-prevailing party.
- (g) The action of the Township Administrator shall be binding, pending the decision of the Board.
- (h) The decisions of the Board shall be immediately appealable to the Court of Common Pleas, pursuant to Chapter 2506 of the O.R.C.

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15 Waivers: Where it appears that the implementation of the provisions of these Regulations create a hardship upon any affected party, the Board by majority vote may waive the application of these regulations upon such terms and conditions as the Township Administrator or Board deems necessary and appropriate to implement the purposes of these regulations, as long as such waiver does not substantially increase any risk or hazard to the public health, water supply, wells or wellfields. Any such waiver, however, does not supersede any conditions of the public water supplier that are adopted and enforced under the authority of the public water supplier.

16 Inspections: Subject to applicable provisions of law, the Township Administrator or his authorized representatives bearing proper identification shall be permitted to enter private property at any reasonable time for such purposes as, but not limited to, inspection, observation, measurement, sampling and records examination pertaining to the requirements of these Regulations to ensure that the activities are in accordance with the provisions of these regulations. If the owner and/or tenant does not consent to the entry of the Township Administrator or his authorized designees for the above stated purposes, the Township Administrator may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter the property, and the owner and/or tenant shall bear the costs of the court action. All users of regulated substances within the Wellfield Protection Area shall be inspected at minimum on a semi-annual basis, and all mining operations permitted under Section 11 of these regulations shall be inspected at minimum on a monthly basis.

17 Fees, Charges, and Fines:

- (a) Any fees, charges or fines payable under the provisions of these regulations shall be paid into the Township General Fund.
- (b) Any fees and charges payable hereunder are due and payable upon the receipt of notice of charges.
- (c) The Board shall establish reasonable fees for the submission of Environmental Audit, Environmental Assessment of Estimated Effect, and Regulated Substance User Permit renewal applications to cover the administrative cost of reviewing these applications and conducting inspections of the facilities.

18 Vandalism: No person shall maliciously, willfully, or with gross negligence 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 Township's water facilities, lines, or other appurtenances.

19 Notice of Violation: Any person found in violation of any provision of these regulations or any order, requirement, rule or regulation issued under the authority of these regulations will be served with a written notice stating the nature of the violation, the potential penalties pursuant to these regulations, and providing reasonable time for compliance. If the Township Administrator 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 Township Administrator may dispense with establishing another time period for compliance.

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.

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

21 Penalties:

- (a) Any person who negligently violates or continues to negligently violate any provision of these Regulations, beyond the time limit for compliance set forth by the Township Administrator, notice of violation by the Township Administrator, or a compliance schedule established by the Township Administrator, shall be subject to the following:
 - (1) The first violation shall be punishable by a fine in an amount not to exceed \$5,000.00;

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- (2) A subsequent violation of the same provision shall be punishable by a fine in an amount not to exceed \$10,000.00;
- (3) A continuing violation of any provision of this Chapter shall be punishable by an additional fine of \$500.00 per day.
- (b) Notwithstanding the fine provisions of these Regulations, the violator is responsible for costs of cleanup 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. Nothing contained herein shall be construed to prevent the Township from seeking other legal remedies under applicable law.



EXHIBIT A

Etna Township Wellfield Protection Regulations


The Etna Township Wellfield Protection Regulations are adopted this 28th day of April, 2015 by the Etna Township Board of Trustees. The effective date of the regulations shall be the 1st day of June, 2015. Resolution 15-04-28-01 is on file with the Fiscal Office.


John J. Carlisle
President, Board of Trustees

4-28-15
Date


Randy Foor
Vice-President, Board of Trustees

4-28-15
Date


Jeff Johnson
Board of Trustees

4-28-15
Date


Walter Rogers
Fiscal Officer

4-28-15
Date