

**Model Drinking Water Source Protection Ordinance – Midvale City Utah  
17.58.010 Title, applicability and authority.**

A. Title. The ordinance codified in this chapter, shall be known as the "Model Drinking Water Source Protection Ordinance." The provisions of this chapter shall be effective within the boundaries of the city, and shall set prohibitions and restrictions to prevent contamination of the public drinking water supply in the city as a result of hazardous and toxic substances entering the groundwater, including wells not owned by the city. This chapter shall be liberally construed to effect the purposes set forth herein.

B. Applicability. It shall be the responsibility of any person owning real property and/or owning or operating a business within the jurisdiction of the city to conform and comply with the applicable provisions contained in this chapter. Ignorance of this provision shall not excuse any violations of the provisions of this chapter.

C. Authority. The city has the authority to adopt the ordinance codified in this chapter to facilitate compliance with drinking water source protection regulations pursuant to the Land Use and Development Act, Subsection 10-9-102, the Utah Administrative Code, Section R309-113, and other such authorities and provisions as in the statutory and common law of the state of Utah. (Ord. 2-17-98 § 1, 1998)

**17.58.020 Purpose and intent.**

The purpose of this chapter is to protect, preserve, and maintain existing and potential public drinking water sources in order to safeguard the public health, safety and welfare of city residents and visitors. The intent of this chapter is to establish and designate drinking water source protection zones and groundwater recharge areas for all sources of public drinking water within city boundaries and jurisdiction. This chapter establishes criteria for regulating the storage, handling, use or production of hazardous or toxic substances within identified areas where groundwater is, or could be affected by the potential containment source. This shall be accomplished by the designation and regulation of property uses and conditions that may be maintained within such zones or areas. The provisions of this chapter shall apply only to developments that take place after the effective date of the ordinance codified in this chapter or to existing property uses that change their character to such an extent as to constitute a new use and different use. The provisions of this chapter shall also apply to the handling, movement and storage of potentially hazardous materials.

The degree of protection afforded by this chapter is considered adequate for regulatory purposes. This chapter does not ensure that public drinking water sources will not be subject to accidental or intentional contamination, nor does it create liability on the part of the city, or an officer or employee thereof, for any

damages to the public water supplies from reliance on this chapter nor any administrative order lawfully made thereunder.

A notice to cease or an exemption issued under this chapter shall not relieve the owner of the obligation to comply with any other applicable federal, state, regional or local regulations, rule, ordinance or requirement, nor shall said notice or exemption relieve any owner of any liability for violation of such regulations, rules, ordinances or requirements. (Ord. 2-17-98 § 2, 1998)

### **17.58.030 Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be defined as follows:

"Abandoned well" means a well the use of which has been permanently discontinued or is in such a state of disrepair that it cannot be used for its intended purpose or for observation purposes.

"Best Management Practices (BMPs)" means a practice or combination of practices determined to be the most effective practicable (including technological, economic and institutional considerations) means of preventing or reducing the amount of pollution to a level compatible with water, soil and air quality goals.

"City" means the city of Midvale, Utah.

"Closure" means the cessation of operation of a facility, or any portion thereof, and the act of securing such facility or portion thereof to ensure protection of groundwater in accordance with the appropriate state, federal and local regulations applicable to the specific facility and with the provisions of this chapter.

"Code" means the code of ordinances, city of Midvale.

"Code inspector" means any authorized agent or employees of the city whose duty is to assure code compliance.

"Collection area" means the area surrounding a groundwater source which is underlain by collection pipes, tile, tunnels, infiltration boxes or other groundwater collection devices.

"Continuous transit" means the nonstop movement of a mobile vehicle except for stops required by traffic laws.

"Council" means the city council of the city of Midvale, Utah.

"Department" means the public agency, division, or department designated by the city to enforce the provisions of this chapter. For the city, the department is public works.

"Discharge" means and includes, but shall not be limited to, spilling, leaking, seeping, pouring, injecting, emitting, emptying, disposing, releasing or dumping regulated substances to the soils, air, groundwaters or surface waters of the city. Release does not include the use of a regulated substance in accordance with the appropriate use intended or specified by the manufacturer of the substances, provided that such use is not prohibited by federal, state or local regulations. Release shall not include releases specifically authorized by federal or state permits.

"Drinking water source protection review committee" shall be the public utilities department determined by the city, and whose purpose is to make determinations regarding delineation of protection areas and zones.

"Drinking water source protection zone" means an area within which certain practices are mandated to protect groundwater flowing to public drinking water wells.

"Drinking water supply spring" means a drinking water spring to supply water which has been permitted or intended for consumptive use.

"Drinking water supply well" shall mean a drinking water well to supply water which has been permitted or intended for consumptive use.

"DWSP" means drinking water source protection.

"EPA" means the U.S. Environmental Protection Agency.

"Groundwater" means any water which may be drawn from the ground.

"Groundwater discharge area" means an area where the direction of groundwater movement is upward from the principal aquifer to the shallow unconfined aquifer. Discharge areas, determined by the United States Geological Survey (USGS), are shown on Exhibit 2 included in the original ordinance on file with the city recorder.

"Groundwater divide" means a ridge in the water table or potentiometric surface, from which groundwater moves away in both directions.

"Groundwater TOT" means time of travel for ground-water.

"Handle" means to use, generate, process, produce, package, treat, store or transport a regulated substance in any fashion.

"Hazardous waste" means a hazardous waste as defined by the US EPA.

"Nonresidential activity" means all activity that is not designated as residential.

"Operating permit" means a permit to operate a facility handling regulated substances under this chapter. The permit will be issued by the department of building, zoning and licensing for the city.

"PCS" means potential contaminant source.

"Person" means an individual, firm, partnership, corporation, association, joint venture, governmental entity or other legal entity, and shall include the plural as well as singular.

"Petroleum product" includes fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils (new and used), hydraulic fluids, and other similar petroleum-based products.

"Primary recharge area" means the areas depicted on Exhibit 2 included in the original ordinance on file with the city recorder.

"Protection zone" means the delineation zones of the drinking water source protection zone, as summarized in Section 17.58.040(B) of this chapter.

"PWS" means public water system.

"Regulated substances" means substances (including degradation and interaction products) which because of quantity, concentration, or physical, chemical (including ignitability, corrosivity, reactivity and toxicity), infectious characteristics, radiomutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (nondegradability) in nature, or any other characteristics relevant to a particular material that may cause significant harm to human health or/and environment (including surface and groundwater, plants and animals).

"Residential activity" means any building or structure or portion thereof that is designed for or used for residential purposes and any activity involving the use of occupancy of a lot for residential purposes. Residential activity shall include those customary and accessory residential activities associated with the principal permitted use of a lot for residential purposes as set out in the zoning ordinance of the city.

"SARA Title III" means the Superfund Amendment and Reauthorization Act section found in 40 CFR 300-302, pertaining to emergency response and right-to-know.

"Secondary containment" means any system that is used to provide release detection and release prevention, such as trays under containers, floor curbing or other systems designed to hold materials or liquids that may discharge from containers holding regulated substances. Examples include a double-walled tank, a double-walled integral piping system, or a single-walled tank or integral piping system that is protected by an enclosed concrete vault, liner or an impervious containment area.

"Secondary recharge area" means the areas depicted on Exhibit 2 included in the original ordinance on file with the city recorder.

"Septic holding tank" means a water-tight receptacle, used to contain septic waste. The contents of which are extilated and disposed of at a waste disposal facility.

"Septic tank system" means a generally water-tight receptacle connected to a dram field that allows liquid from the tank to enter the soil. The system is constructed to promote separation of solid and liquid components of domestic wastewater, to provide decomposition of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal in a soil absorption system.

"Sludge or biosolids" means the solids separated from wastewater during the wastewater treatment process.

"Solid waste disposal facility" means any solid waste management facility which is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating solid waste.

"Solid waste transfer facility" means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility. It does not include green boxes, compactor units, permanent dumpsters, and other containers from which such wastes are transported to a landfill or other solid waste management facility.

"Travel time contour" shall mean the locus of points that form a line of any configuration in space from which groundwater particles on that line theoretically take an equal amount of time to reach a given destination, such as a well or a wellfield, as predicted by the Refined Salt Lake Valley MODFLOW/MODPATH model copyrighted.

"UAC" means the Utah Administrative Code.

"USGS" means the United States Geological Survey.

"Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, acquisition, development or artificial recharge of groundwater.

"Wellfield" means an area of land which contains one or more drinking water supply wells. (Ord. 2-17-98 § 3, 1998)

#### **17.58.040 Extent and designation of recharge areas and protection zones.**

A. Recharge Area and Protection Zone Map. The extent of the recharge areas and the protection zones may be seen on the Recharge Area and Protection Zone Map, Exhibit 2, included in the original ordinance on file with the city recorder. The Recharge Area and Protection Zone Map was completed October 21, 1997, and is incorporated and made a part of this chapter. The recharge area boundary lines have been located along streets and/or section lines for convenience of assessing which prohibition and restrictions apply to a specific property. This map shall be on file with the city, and shall be maintained by the city and public water systems whose groundwater resources lay within the city's boundaries and jurisdiction. Any amendments, additions or deletions to this map shall be by the city and/or the public water system following written notice after approval by the drinking water source protection review committee. Notice shall be published at least thirty days prior to consideration by the committee.

B. Designation of Recharge Areas and Protection Zones. The following recharge areas and protection zones are hereby designated within the city:

1. Primary recharge area, as determined by the USGS.
2. Secondary recharge, as determined by the USGS.
3. Protection Zone 1 shall be the area within a one hundred-foot radius from the well or margin of the collection area.
4. Protection Zone 2 shall be the area within a two hundred fifty-day groundwater TOT to the margin of the collection area, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.
5. Protection Zone 3 shall be the area within a three-year TOT to the margin of the collection area, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.
6. Protection Zone 4 shall be the area within a fifteen-year TOT to the margin of the collection area, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. In determining the location of properties and facilities within the areas and zones depicted on the Drinking Water Source Protection Overlay Map, the following rules shall apply.

1. Property located wholly or partially in a recharge area or a protection zone on the overlay map shall be governed by the restrictions applicable to that recharge area or protection zone.
2. Properties located within more than one recharge area or protection zone as shown on the overlay map shall be governed by the restrictions applicable to the most restrictive protection zone.

D. Review of Recharge Area Protection Zone Map. The Recharge Area and Protection Zone Map shall be reviewed at least one time every five years or more frequently if determined appropriate by the city. Failure to conduct this review shall not affect the validity of the existing approved map. The basis for updating the map may include, but is not limited to, the following:

1. Changes in technical or scientific knowledge in the areas of geohydrology, hydraulics, and geology.
2. Changes in wellfield configuration.
3. Changes in pumping rates for the wellfield.
4. Development of new wells, wellfields and/or springs.
5. Changes in water quality.

(Ord. 2-17-98 § 4, 1998)

**17.58.050 Permitted uses, conditional uses and prohibitions within recharge areas and protection zones.**

A. Releases. No person shall discharge, or permit the discharge of any regulated substances or petroleum products, whether treated or untreated, to soils, air, groundwater or surface water in any recharge area or protection zone, that may have a deleterious effect upon the groundwater in the city, unless the release is in compliance with federal, state and local regulations.

B. Prohibitions and Restrictions. Table 17.58.050 is a summary matrix of potential contamination sources and their prohibited, permitted, or conditional use in the protection zones referenced in Section 17.58.040(B) of this chapter.

C. Review of Development Plans. All development plans that lie within the primary recharge area shall be reviewed by a registered geologist who has

demonstrated expertise in the assessment of recharge rates. Any development that will result in a loss of the beneficial use of groundwater or that may have an adverse or negative effect upon local groundwater quality shall be rejected. Plans that are rejected may be revised by the developer and resubmitted to the city for subsequent review by a registered geologist. Developments that do not lie within either the primary or secondary recharge area may proceed with the development plan processing requirements of the city. (Ord. 2-17-98 § 5, 1998)

Table 17.58.050

**USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES**

The following table identifies uses which have varying potentials to contaminate groundwater sources. These uses have been classified according to the risk of contamination in each protection zone as follows:

Permitted Uses (P) -- The risk of contamination is considered relatively low in the specified zone if regulatory requirements and Best Management Practices are implemented and, therefore, the use is permitted.

Conditional Uses (C) -- The risk of contamination is moderate in the specified zone. The use may be permitted only after conditional use review and approval by the planning commission. Approval is subject to implementation of Best Management Practices and compliance with other reasonable conditions as may be established by the planning commission. The Utah Division of Drinking Water Quality shall review all conditional use requests.

Prohibited Uses (X) --- The risk of contamination is very high in the specified zone. The use is not permitted.

Stormwater: R-317--8-3.8(1)(a) Pretreatment: Contact local municipal

R-317--8--3.8(b)(c)+(d) wastewater plant

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Abandoned wells	X	X	X	X	X	State Rule R655-4, 12.1 to 1.2 for	

						requirements to abandon wells.	
Agricultural pesticide, herbicide, and fertilizer storage, use, filling and mixing areas	C	C	X	C	C	FIFRA - 40 CFR 152-156, 157/RCRA Subtitle C/ Utah Pesticide Control Act	BMP - Department of Agriculture

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Airport maintenance and fueling sites	C	C	X	C	C	Stormwater/UST	
Appliance repair	P	P	X	P	P	RCRA Subtitle C	
Auto operations and fleet vehicle maintenance facilities (commercial):	C	C	X	C	C		BMP-SL Co. Health
1. Dealership maintenance						RCRA-C/UST/ Pretreatment	

departments							
2. Tire							
3. Auto body							
4. Engine repair							
5. Rust proofing							
6. Oil and lube shops						Used Oil UAC R315-5	
7. Vehicle rental with maintenance							
Beauty salons	C	P	X	C	P		
Boat building and refinishing	C	P	X	C	C	RCRA Subtitle C	

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Car washes	C	P	X	P	P	Pretreatment	Contact Local Planning Department
Cemeteries, golf courses, parks and plant nurseries	C	C	X	C	C	FIFRA	
Chemical	C	C	X	C	C	RCRA Subtitle G	

reclamation facilities							
Chemigation wells	C	C	X	X	C	UIC	
Concrete, asphalt and tar companies	C	C	X	C	C		
Dairy farms and animal feed lots (more than 10 animal units)	C	P	X	X	P	UPDES, R-317-8	
Dry cleaners (with onsite chemicals)	C	C	X	X	P	RCRA Subtitle C, Pretreatment/SLCo. BMP	
Dry cleaners (without onsite chemicals)	P	P	X	P	P		
Embalming services	C	C	X	C	C	Pretreatment	

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Farm operations:							
1. Dump sites	X	C	X	C	C	Used Oil R315-15, Solid &	

						Hazardous - RCRA Subtitle C	
2. Maintenance garages	C	C	X	C	C	Used Oil, RCRA Subtitle C	
3. Manure piles (<_____ cubic feet)	C	C	X	C	P	UPDES, R-317-8, GW R-317-6	
Food processing, meat packing and slaughter houses	C	C	X	X	P	UPDES, R-317-8, Pretreatment	
Fuel, oil, and heating oil distribution and storage facilities	X	C	X	C	C	Section 6.1 through 6.1.4 of this ordinance	
Furniture stripping, painting and finishing businesses	C	C	X	C	C	RCRA, Subtitle C	
Gasoline service stations (including underground storage tanks)	C	C	X	C	C	Local zoning and land use regulations; UST guidelines	

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential	Protection Zone	Related Regulations	Best
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Contamination Source						Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4	
Hospitals and medical, dental and veterinary offices	C	C	X	C	C	Solid & Hazardous
Industrial manufacturers of:  chemicals, pesticides, herbicides, paper products, leather products, textiles, rubber, plastic, fiberglass,  silicone, glass, pharmaceuticals and electrical equipment, etc.	X	C	X	C	C	Sections 6.1 through 6.1.4 and Section 6.3 of this ordinance  FIFRA + RCRA Subtitle C
Industrial waste disposal/  impoundment areas	X	C	X	X	C	GWR-317-6, RCRA Subtitle C
Junk and salvage yards	X	C	X	C	C	SL Co. BMP
Landfills and transfer stations	X	C	X	C	P	UDSW, Solid Waste Rules R315-301-

						320; Section 6.8 of this ordinance; RCRA Subtitle D	
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Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Laundromats	C	P	X	P	P	Pretreatment	
Machine shops,  metal plating, heat treating, smelting, annealing and descaling  facilities	X	C	X	C	C	Pretreatment, RCRA Subtitle C	
Mining Operations:							
1. Radiological	C	C	X	P	P	UAC GW R317-6, UAC R313-25	
2. Sand and gravel excavation and processing	C	P	X	P	P	Const UAC R317-1	
Municipal	C	C	X	X	P	UDWQ,	

wastewater treatment plants						Design Requirements for Wastewater Collection, Treatment, and Disposal Systems, UAC, R317-3	
Photo processing and print shops	C	C	X	C	C	Pretreatment	
Railroad yards	C	P	X	P	P	Used Oil	

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Residential pesticide, herbicide, and fertilizer storage, use, filling and mixing areas	C	P	X	C	C		Follow manufacturer's directions for use and storage
Residential underground storage tanks	X	C	X	C	P	UAC R311-203, 205, 206	
RV waste disposal	C	C	X	X	P	UAC R392	

stations							
Salt and salt-sand piles	C	C	X	C	C	Section 6.7 of this ordinance	DEQ/UDOT BMP
Septic tank drain field systems	X	C	X	X	C	UDWQ, Individual Wastewater Disposal Systems, UAC, R317-501 through R317-513, State Department of Health, Code of Waste Disposal Regulations, Part IV and Part V	

Table 17.58.050

USE MATRIX FOR POTENTIAL CONTAMINATION SOURCES (Continued)

Potential Contamination Source	Protection Zone					Related Regulations	Best Management Practice(s)
	Primary Recharge	Secondary Recharge	Zone 1	Zone 2	Zones 3 and 4		
Stormwater detention basin and snow storage sites	C	C	X	C	P		

Toxic chemical storage and oil pipelines	X	X	X	X	X	Section 6.1 through 6.1.4 of this ordinance	
Wood preservative treatment facilities	X	C	X	C	C		
<p>UAC: Utah Administrative Code</p> <p>UDDWQ: Utah Division of Drinking Water Quality</p> <p>UDOGM: Utah Division of Oil, Gas, and Mining</p> <p>UDSW: Utah Division of Solid Waste</p> <p>RCRA: Resource Conservation and Recovery Act</p>							

**17.58.060 Management strategies and performance standards.**

A. Toxic, Hazardous and Other Materials Handling Regulations.

1. The general classes of substances to be regulated under this chapter shall be those set forth in the Generic Regulated Substances List which is presented as Exhibit 17.58.060 of this chapter. The regulated substances shall include those set forth in the most current lists, as amended from time to time, entitled Identification and Listing of Hazardous Materials (40 CFR Part 261, Subpart D) and List of Extremely Hazardous Substances (40 CFR Part 355, Appendix A and B) and which are in a form that they are, all or in part, capable of entering the groundwater.

2. The use and storage of regulated substances in designated protection zones and recharge areas shall be allowed, provided that the quantities of these substances do not exceed the reportable quantity for each regulated substance, as designated in 40 CFR 302 (pursuant to section 311 of the Clean Water Act). An applicant may be exempted from the provisions of this section provided that he or she demonstrates to the department and to the Utah Division of Drinking Water Quality that the regulated substances pose no hazard to groundwater.

B. Storage Containers.

1. All regulated substances shall be stored in suitable containers to reduce the chance for the substances to be accidentally introduced into the environment. These storage containers shall be product-tight and, except where provided elsewhere in the chapter, shall be provided with a means to control spillage (primary containment) and to contain or drain off spillage and fire-protection water discharged in the storage area (secondary containment).
2. Storage containers which are stored outside must be covered or mounted to prevent the accumulation of rain or other water on the top of the container, or the degradation of the top, sides or bottom of the container, in a manner that would lead to the reduction of the integrity of the container. Defective storage containers shall be removed from service for repair or disposal in accordance with local, state and federal standards.

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### C. Secondary Containment.

1. Where secondary containment is required, it shall be constructed of a material of sufficient structural integrity and composition to contain the required capacity of liquids and not be structurally weakened as a result of contact with the discharge of the regulated substance to be contained. The material shall be free of cracks, joints, gaps or other imperfections which would allow leakage through the containment material.
2. The secondary containment system shall have sufficient capacity to contain (a) ten percent of the volume of all containers and one hundred percent of the volume of the largest single container, whichever is greater, plus (b) the design flow rate of the automatic fire extinguishing system (for twenty minutes) for the area or room in which the storage is located. If the storage area and/or containment area are open to rainfall, the secondary containment system must also accommodate the volume of a twenty-four-hour rainfall as determined by a twenty-five-year storm frequency. Liquid that accumulates in the secondary containment system shall be removed in as timely a manner as necessary to prevent overflow of the system. Nonhazardous liquids may be drained in accordance with applicable local regulations. If the collected material is a hazardous waste under Title 40 Part 261 of the Code of Federal Regulations, it must be managed as a hazardous waste in accordance with all applicable requirements of Parts 262 through 266 of that regulation.
3. Vacuum suction devices, absorbent scavenger materials or other devices approved by the department, shall be present on-site or available to facilitate the removal or further containment of spilled regulated substances. Devices or materials shall be available in sufficient magnitude so as to at least control and collect the total quantity of regulated substances that the containment system is

designed to contain. Emergency containers shall be present and of such capacity as to hold the total quantity of regulated substances plus absorbent material.

D. Regulated Substances Emergency Management Plan. An emergency plan shall be prepared and filed with the Department, the Fire Department, the Police Department, and the PWS indicating the procedures that will be followed in the event of the release of a regulated substance so as to control and collect all such spilled material in such a manner as to prevent it from discharging into any storm or sanitary drains or the ground. Facilities which have had, or appear to have had, unauthorized discharges to soil or groundwater shall be required by the department to submit a regulated substances management plan for the facility. The written plan will be used to demonstrate to the department that the facility owner or operator understands the procedures and has the proper equipment to handle regulated substances within the guidelines of this chapter. The plan should not be implemented without the approval of the department.

E. Reporting of Spills. Any spill of a regulated substance in excess of the nonaggregate quantity thresholds established by the List of Hazardous Waste (40 CFR Part 261), Subpart D, 40 CFR Appendix VIII--Hazardous Constituents and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances under CERCLA (40 CFR 302, effective July 3, 1986), shall be reported by telephone to the city and designated water utility within one hour of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report shall be submitted to the city within fifteen days of discovery of the spill.

F. Best Management Practices. Under the provisions of this chapter, all potential contamination sources within the city's boundaries, shall incorporate and utilize Best Management Practices (BMPs) in their operations. BMPs that reduce the potential for spills and leaks at a site to occur and enter groundwater shall be construed within the context of this chapter to include, but not be limited to, structural and nonstructural practices, conservation practices, and operation and maintenance procedures as specified by the Utah Department of Drinking Water Quality and the U.S. Environmental Protection Agency.

G. Underground Storage Tanks.

1. Installation of any new underground storage tanks used to store regulated substances for either residential or nonresidential activities in recharge areas and protection zones designated under Sections 17.58.040(B) and 17.58.050 of this chapter, shall require a secondary containment system for the tank and associated underground piping and an automatic leak detection system.

2. A permit from division of environmental remediation and response shall be required for the removal or closure of USTs. The permit shall require that leaking tanks be pumped dry and removed from the ground by a state-licensed

company. If removal of the UST(s) is not feasible, the lines shall be disconnected and capped and the tank shall be filled with an inert substance such as washed sand.

3. Best management practices implementation is required for all underground storage tanks.

#### H. Septic Tank Systems.

1. No person shall place, maintain or operate onsite sewage disposal from a septic tank within the primary recharge area, Zone 1, Zone 2, or within three hundred feet of any public street in which a public sewer is laid. Septic systems in Zones 3 and 4 shall comply with the Utah State Department of Health Care of Waste Disposal Regulations, Part IV and Part V.

2. Nonresidential activities which have septic tank systems shall have installed a 4-inch-diameter vertical pipe with a locked cap or locked top in the top of the septic tank. This monitoring pipe shall be located in a manner which will permit ready access by department personnel to extract representative samples to check for improper/unauthorized disposal of regulated substances.

3. A septic holding tank that does not discharge into the soil would be preferred. The contents of a septic holding tank are removed, and can be treated or disposed of at an appropriate facility.

#### I. Sewage Collection, Transmission and Disposal.

1. No person shall discharge treated or untreated sewage in any area not specifically designated for that purpose by the department. The owner or operators of any wastewater treatment plant, sanitary sewer, force main, gravity sewer or lateral shall notify the department within twenty-four hours of discovering a break that may or does result in the leakage of sewage. Emergency telephone numbers will be prominently displayed on all sewage lift stations within Zones 1, 2, 3 and 4, and the primary recharging area.

2. All leaking sewage collection and transmission pipes shall be repaired or replaced. New sewage collection and transmission pipes shall be installed according to acceptable construction standards and shall have routine inspections during and after construction.

3. No person shall place, maintain or operate a wastewater treatment plant within Zones 1 or 2.

#### J. General Stormwater Management.

1. All future stormwater management systems to be constructed and implemented for facilities within the protection zones and recharge areas shall be permitted in accordance with applicable local, state, and federal laws and regulations.

2. The discharge of stormwater into drainage wells or open sinkholes shall be prohibited without some form of treatment. This treatment shall be applied to at least the first 0.5-inch of runoff from the area tributary to the well or open sinkhole.

3. The clean water and stormwater regulations require municipalities and industries to identify, monitor, and limit urban runoff that may enter rivers, thus potentially affecting groundwater quality.

K. Deicing Salt Storage and Application. Deicing salt shall be stored on an impermeable pad and shall be covered. Deicing salt application shall use Best Management Practices and shall evaluate substitute products and technologies.

L. Landfills. Expansion or creation of new landfills is prohibited in the primary recharge area and Zone 1 and Zone 2. Existing landfills in the primary recharge area or in Protection Zone 1 shall be required to comply with the provisions of UAC R315-301-1 through 301-5. Landfills shall develop and implement a landfill monitoring program. The monitoring shall include the vadose zone and groundwater. If the monitoring detects contamination, the following corrective measures may be required:

1. Cover the landfill with suitable low-permeability materials and minimize the application of supplemental water to reduce infiltration of moisture.

2. Install groundwater containment and treatment actions, additional monitoring, and erosion controls as required.

M. Environmental Quality Monitoring. Facilities which have had, or appear to have had, unauthorized releases to soil or groundwater shall be required by the department to monitor soil and groundwater in and adjacent to the facility. At the request of the department, the facility will submit a monitoring plan for department review. The plan shall be implemented with the approval of the department. Facilities that undergo closure may be required to monitor soil and groundwater in and adjacent to the facility subject to closure. All costs associated with the closing and monitoring of the site will be paid for by the operator of the facility. (Ord. 2-17-98 § 6, 1998)

### **17.58.070 Exclusions and exemptions.**

The exclusions and exemptions listed in this section shall not pertain to Zone 1 within one hundred feet from the wellfield in the recharge areas.

A. Exclusions. The following substances are not subject to the provisions of this chapter provided that these substances are handled, stored, and disposed of in a manner that does not result in an unauthorized release or cause contamination of the groundwater.

1. Required substances stored at residences that do not exceed ten pounds or five gallons and used for personal, family, or household purposes.
2. Commercial products limited to use at the site solely for office or janitorial purposes when stored in total quantities of less than twenty pounds, or ten gallons.
3. Prepackaged consumer products available through retail sale to individuals for personal, family or household use that are properly stored.
4. Water-based latex paint.
5. Fertilizers and treated seed (except as noted in the chapter).
6. Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications when applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.
7. Compressed gases.
8. Substances or mixtures which may pose a hazard but are labeled pursuant to the Federal Food, Drug and Cosmetic Act.

B. Continuous Transit. The transportation of any regulated substance(s) through any protection zone or recharge area shall be allowed provided that the transporting vehicle is in continuous transit.

C. Vehicular and Lawn Maintenance Fuel and Lubricant Use. The use of any petroleum product solely as an operational fuel in the vehicle or lawn maintenance fuel tank or as a lubricant in such a vehicle shall be exempt from the provisions of the chapter. These spent products shall be properly disposed of in compliance with applicable federal, state and local regulations. (Ord. 2-17-98 § 7, 1998)

#### **17.58.080 Enforcement, violation and penalties.**

A. Inspections. The department shall be granted the right, under this chapter, to enforce the provisions of this chapter for the city. An authorized officer of the city or the PWS has the right to conduct inspections of facilities to determine compliance with the chapter. The authorized officer or the PWS shall inform the

department and other city entities, as deemed appropriate, of the results of the inspection and whether violations were noted. The authorized officer of the city shall enforce the provisions of this chapter without regard to whether the wells within the city boundaries are owned by the city. Noncompliance with the provisions of the chapter is a violation. If the facility is not complying with the requirements of the chapter, penalties (e.g., citations of noncompliance, orders to cease operations or administrative penalties) may be assessed. The chapter regulates businesses within the protection zones and primary and secondary recharge areas within the city.

#### B. Notice of Violations.

1. Whenever it is determined that there is a violation of this chapter or the regulations promulgated pursuant hereto, the notice of violation shall:

a. Be in writing;

b. Be dated and signed by the authorized city agent that made the inspection or determined the violation;

c. Specify the violation or violations;

d. Provide a specific date that the violations will be corrected by;

e. State that if the violation is not corrected by a specific date a hearing may be requested before the department.

2. If a potential contaminant source (PCS) is out of compliance with the provisions of the chapter, but does not pose an immediate threat to public health, then a written warning of violation may be issued within thirty days. The person has the opportunity to show a good faith effort to correct an unintentional violation within a reasonable amount of time. A cease and desist order shall be issued by the department if the PCS is found not to employ BMPs and there is an immediate threat to public health and safety or if the violation is not corrected within the time frame specified in a written warning previously issued to the PCS. In the event that the PCS fails to comply with a cease and desist order within the specified time period, the department has the authority to file a request for the department to initiate proceedings for issuance of penalties and other relief as necessary.

3. Any PCS or person found in violation of any provisions of the chapter will be served with a written notice stating the nature of the violation and providing a reasonable time frame for compliance. Violations of the provisions of the chapter constitute a misdemeanor, punishable as provided by law. In the event of a spill, leak or discharge of a regulated substance, the department if he/she deems the activity to pose a real and present danger of contaminating surface or

groundwater which would normally enter the public water supply, the department has the authority under this chapter to cause cessation of such activity or use of regulated substance, require administrative controls to mitigate such danger and/or cause the provision of pollution control and abatement activities. A facility is in violation of the chapter, if use of regulated substances in a protection zone or primary or secondary recharge area exceeds twenty gallons or one hundred sixty pounds at any time. The total use of regulated substances may not exceed fifty gallons or four hundred pounds in any twelve-month period.

### C. Appeals.

1. Persons cited under the enforcement provisions of subsections (A) and (B) of this section shall be afforded a process for appealing the ruling of the department. If the appeal pertains to a written warning of violation requesting the PCS to correct an unintentional violation in a reasonable amount of time, the PCS can submit to the department a written statement demonstrating compliance or explaining a process for coming into compliance. This written response is required no later than thirty days from the date of issuance of the warning.

2. If the appeal pertains to a cease and desist order issued by the department, the PCS can submit a written appeal response no later than ten days from the date of issuance of the order. The written appeal shall contain:

a. Documentation of compliance; or

b. Response to specific violations cited in the cease and desist order and the remedial actions planned to bring the facility into compliance; and

c. Schedule for compliance.

3. Upon receipt of the written appeal, the department shall be required to review the appeal within thirty days of its receipt and respond to the PCS. If the department determines that the written response from the PCS is adequate and noncompliance issues are addressed, the PCS will be notified by mail and no further action is required. If the department determines that the appeals response is inadequate, the PCS may request a hearing before the department. This hearing shall be held within thirty days of receiving the cease and desist order and shall remain in effect until the hearing is conducted. (Ord. 2-17-98 § 8, 1998)

### **17.58.090 Other.**

A. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other restrictions, including land use codes or development regulations conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

B. Disputes. Disputes arising from the delineation of DWSP zones and primary and secondary recharge areas shall be directed to the drinking water source protection review committee to review specific detailed delineation maps showing the boundaries. The boundaries have been defined, for ease of implementation of the chapter, according to major city streets.

C. Review of the Ordinance. The city, the drinking water source protection review committee, and all water utilities whose wells and/or springs lay within the city boundaries shall review the provisions of this chapter at least once every five years, or more frequently if determined appropriate by the city, to determine its applicability and may incorporate changes as deemed appropriate. (Ord. 2-17-98 § 9, 1998)

### **17.58.100 Liability.**

Any person subject to regulation under this chapter shall be liable with respect to regulated substances emanating on or from the person's property for all cost of removal or remedial action incurred by the city or the PWS and for damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction or loss from the release or threatened release of a regulated substance as defined by this chapter. Such removal or remedial action by the city or the PWS may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and cleanup or disposal of regulated substances resulting from spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates, or is expected to create, an emergency hazardous situation. (Ord. 2-17-98 § 10, 1998)

### **17.58.110 Administration.**

The policies and procedures for administration of any protection zone or primary and secondary recharge area established under this chapter, including without limitation those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in any existing zoning ordinance in the city, as the same is presently enacted or may from time to time be amended. (Ord. 2-17-98 § 11, 1998)

### **Exhibit 17.58.060**

#### **Generic Regulated Substance List**

Acid and basic cleaning solutions

Antifreeze and coolants

Animal dips

Arsenic and arsenic compounds

Battery acids

Bleaches and peroxide

Brake and transmission fluid

Brine solution

Casting and foundry chemicals

Caulking agents and sealants

Cleaning solvents

Corrosion and rust preventatives

Cutting fluids

Degreasing solvents

Disinfectants

Dyes

Electroplating solutions

Engraving and etching solutions

Explosives

Fertilizers

Fire extinguishing chemicals

Food processing wasters

Formaldehyde

Fuels and additives

Glues, adhesives and resins

Greases

Hydraulic fluid

Indicators

Industrial and commercial janitorial supplies

Industrial sludges and stillbottoms

Inks, printing, and photocopying chemicals Laboratory chemicals

Liquid storage batteries

Medical, pharmaceutical, dental, veterinary, and hospital  
solutions

Mercury and mercury compounds

Metal finishing solutions

Oils

Paints, primers, thinners, dyes, stains, wood

preservatives, varnishing and cleaning compounds

Painting solvents

Pesticides and herbicides

Photo development chemicals

Plastic resins, plasticizers and catalysts

Poisons

Polishes

Polychlorinated biphenyls (PCBs)

Pool chemicals

Processed dust and particulates

Radioactive sources

Reagents and standards

Refrigerants

Roofing chemicals and sealers

Sanitizers, disinfectants, bactericides, and algaecides

Soaps, detergents and surfactants

Solders and fluxes

Stripping compounds

Tanning industry chemicals

Transformer and capacitor oils and fluids

Wastewater

Water and wastewater treatment chemicals