

7.0 NON-CONFORMING LAND USES

A non-conforming use is defined as any existing use that, as of the effective date of the WP-O Ordinance (2007), would otherwise be prohibited within a designated Capture Zone.

7.1 CONFORMANCE WITH STANDARDS

Existing non-conformities will be allowed within a Capture Zone only if in accordance with Chapter 9 "Non-conformities" of Appendix A (Zoning Ordinance) of the City of Kalamazoo's Code of Ordinances. Non-conforming land uses pursuant to the WP-O Ordinance shall meet the requirements of the Standards established in this document and/or shall prepare a Water Programs Manager-approved Spill Contingency Plan. The City reserves the right to approve/determine which option(s) is to be implemented for the specific circumstance.

Proposed development/redevelopment at existing non-conforming sites shall at a minimum meet or exceed the Standards presented herein, to bring the redeveloped portion of the site into compliance with current Standards. The City encourages all portions of the site to be brought into compliance during redevelopment activities and may require deficiencies beyond proposed project boundaries (redeveloped areas) to be brought into compliance prior to plan approval, depending on the severity of the deficiency(s) and associated risk(s).

7.2 SPILL CONTINGENCY PLANNING

A Spill Contingency Plan or equivalent environmental contingency plan shall be prepared and provided to the City for all existing and proposed sites that generate, store, use, transfer, or manufacturer regulated substances in quantities exceeding 55 gallons aggregate for liquids or 440 pounds aggregate for dry weight; and an SCP may be required if the proposed land use poses a direct or potential significant adverse impact to a wellfield or surface water feature. SCPs or equivalent plans for the site may be submitted to the Water Programs Manager for review and approval to meet these requirements.

7.2.1 REGULATED SUBSTANCE INVENTORY

The City's Department of Public Services and Department of Public Safety collaborate in the collection of chemical storage information for the purposes of the Wellhead Protection Program, Stormwater Management Program, and the Fire Fighters Right-to-Know Program. For this purpose, a Chemical Inventory and Storage Form is required to be completed and submitted for review prior to site plan approval. Refer to Attachment 3 for a copy of the form or download at <https://www.kalamazocity.org/Business-Development/Project-Review/Apply-for-Site-Plan-Review/Site-Plan-Review-Forms-and-Documents>. The completed document may be submitted to the Water Programs Manager at:

Water Resources Division - Department of Public Services
ATTN: Water Programs Manager
1415 N. Harrison Street, Kalamazoo, MI 49007

An inventory of all regulated substances stored at the site shall be provided to the City and maintained by the Landowner or their designee. For each regulated substance, the inventory shall identify the type of storage container, storage location(s), and typical and maximum storage quantities in each storage location. The site shall maintain a file of current Safety Data Sheets (SDS) that includes the hazardous components and percentage by weight of each regulated substance. This SDS file shall be readily accessible in the event of an emergency.

Whenever possible, sites shall select non-hazardous or less-hazardous chemicals. Materials such as oils should be standardized throughout a site to reduce the quantity of leftover material and mixed waste. Practices that minimize waste generation are encouraged.

7.2.2 RELEASE POTENTIAL ANALYSIS

The site shall develop a written analysis of the potential for a release of each regulated substance stored at the site. This analysis shall consider the potential for release during transfer of the regulated substance to and from the storage area, during storage of the regulated substance, and during use of the regulated substance. In addition, the site plan shall evaluate the likely size of a release for each scenario, as well as the likely destination of the release (e.g., to a floor drain, sump, storm drain, etc.). This information shall be compiled in table form for ease of data compilation and use.

7.2.3 RELEASE PREVENTION MEASURES

Considering each potential release scenario, the SCP shall identify release prevention measures that will minimize the likelihood and/or reduce the impact of a release. These measures could include work practices, housekeeping practices, inspection practices, and/or structural controls (e.g., secondary containment). Prevention measures shall be included in the SCP.

7.2.4 RELEASE RESPONSE PROCEDURES

The SCP shall identify procedures to be followed in the event of a release of a regulated substance. Written procedures shall be established both for minor releases, which pose no danger to human health or the environment and can be handled by trained employees in the immediate vicinity of the release, and for releases that have one or more of the following characteristics:

- The spill cannot be contained safely by site personnel.
- The spilled material has entered site soils or a vegetated area.
- The spilled material has left the site and has entered the site's drain system, sanitary sewer, storm sewer, surface water, etc.

In addition, the SCP shall include the following:

- Identification of various site personnel's responsibilities in the event of an emergency.
- Internal site emergency notification procedures (chain-of-command reporting).

- Emergency contact information, including, at a minimum:
 - Key site personnel and emergency coordinators, including at least one 24-hour emergency contact.
 - Local emergency response agencies (e.g., police department, fire department, ambulance).
 - Local, state, and federal agencies, including the City of Kalamazoo Environmental Programs Coordinator, EGLE, EPA, and National Response Center.
 - Local spill response contractor(s) able to respond in the event of a significant spill.
- An inventory of onsite spill response equipment and locations.
- Facility maps, evacuation routes, muster points, etc.
- Routine personnel safety and spill response training.

The SCP shall also include procedures for characterization and disposal of waste generated by a release.

7.2.5 USE OF OTHER EMERGENCY RESPONSE PLANS

Many sites using or storing regulated substances are required under state and/or federal law to develop a written spill response plan, such as a Pollution Incident Prevention Plan (PIPP), Spill Prevention Control and Countermeasure (SPCC) Plan, RCRA Contingency Plan and/or Stormwater Pollution Prevention Plan (SWPPP). Provided that all of the elements described above are included in one or more existing emergency response plan, the site may substitute the existing plan(s) for the SCP. If the existing plan(s) addresses part, but not all, of the requirements, the site may prepare an addendum to the existing plan(s) so that all requirements are met.