

APPENDIX F – MODEL ORDINANCES

The following is an example of a county source protection ordinance. Wellhead Protection Technology Transfer Centerpiece Workshop (EPA/600/K-92/015) was used as a reference. It has been changed to reflect recommendations in the Drinking Water Source Protection Rule, R309-600 of the Utah Administrative Code, and to reflect the requirements of Utah Code 19-4-113, Water source protection ordinance required, enacted 2008.

Model County Ordinance

Whereas:

- Siting of land uses that have the potential to release hazardous waste, petroleum products, or other contaminants significantly increases the risk of contamination; and
- Poor management practices, accidental discharges, and improper maintenance of these facilities may lead the release of pollutants; and
- Discharges of hazardous wastes, leachate, pathogens, and other pollutants have repeatedly threatened surface and ground water quality throughout Utah; and
- Surface and ground water resources in the County of [county] contribute to the town's drinking water supplies;

Therefore, BE IT ORDAINED by the Council of the County of [county] in Council duly assembled and hereby ordained by the authority of same, and by authority of Utah Code Section 19-4-113, *Water source protection ordinance required*, that the following ordinance known as the Drinking Water Source Protection Ordinance is adopted and made a part of the Code of the County of [county], as a preventative measure for the purposes of preserving and protecting the County of [county]'s drinking water resources from discharges of pollutants; and minimizing the risk to public health and the environment to the County due to such discharges, to wit:

Section 1. Short title and purpose.

- (a) This ordinance shall be known as the "Drinking Water Source Protection Ordinance."
- (b) The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the County by the establishment of drinking water source protection zones surrounding all wellheads and springs within the County's boundary, and by the designation and regulation of property uses and conditions which may be maintained within such zones.

Section 2. Definitions. When used in this ordinance the following words and phrases shall have the meanings given in this Section:

(a) Controlled – means that a physical, regulatory, negligible quantity, or best management/practice control, as defined in Utah UAC R309-600, exists to prevent the discharge of contaminated or hazardous substances from a pollution source or potential contamination source. If no such control exists, the pollution source or potential contamination source is ipso facto uncontrolled.

(b) Design standard - means a control that is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of a design standard.

(c) Pollution source - means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, sanitary landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than _____ animal units. The following clarify the definition of pollution source:

Comment [K1]: Number to be determined locally

(1) Animal feeding operation - means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) Animal unit - means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) Extremely hazardous substances - means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 560/4-91-011).

(d) Potential contamination source - means any facility or site which employs an activity or procedure which may potentially contaminate ground water, whether it currently does or not. A pollution source is also a potential contamination source.

(e) Protected Aquifer – means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the clay layer is demonstrated to be laterally continuous to the extent of zone two;
And

(3) the public-supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer. An aquifer not meeting these criteria is considered “unprotected”

(f) Regulatory agency - means any governmental agency with jurisdiction over hazardous waste as defined herein.

(g) Sanitary landfill - means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

(h) Septic tank/drain-field systems - means a system that is comprised of a septic tank and a drain-field that accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain-field system discharges cannot be controlled with design standards.

(i) Wellhead - means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

Section 3. Establishment of drinking water source protection zones. There are hereby-established use districts to be known as zones one and two, ~~three, and four~~ of the drinking water source protection area identified and described as follows:

Comment [K2]: optional

(a) **Zone one** is the area within a 100-foot radius from the wellhead or spring.

(b) **Zone two** is the area within a 250-day ground-water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. UAC R309-600 allows the establishment of a “Management Area” in lieu of a delineation based on aquifer data; in that case the “Management Area” is considered to be Zone two for that drinking water source.

(Optional:

(c) **Zone three** (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

- (d) **Zone four** is the area within a 15-year ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.)

Section 4. Permitted uses. The following uses shall be permitted within drinking water source protection zones:

- (a) Any use permitted within existing agricultural, single family residential, multi-family residential, and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies.
- (b) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

Section 5. Prohibited uses. The following uses or conditions shall be and are hereby prohibited within drinking water sources protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 4 of the ordinance.

- (a) **Zone one** (for all aquifer types) - The location of uncontrolled potential contamination sources or pollution sources as defined herein.
- (b) **Zone two** (in unprotected aquifers) - The location of pollution sources as defined herein, unless their contaminated discharges are controlled with design standards.

(prohibitions or restrictions in zones 3 and 4 at the option of local government)

Section 6. Administration. The policies and procedures for administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the County of [county], as the same is presently enacted or may from time to time be amended.

Section 7. Applicability. The applicability of this ordinance extends to both incorporated and unincorporated sections of the County, unless an incorporated municipality within the County enacts an ordinance in accordance with Utah Code Section 19-4-113 and/or Utah Code Section 10-8-15.

Section 8. Enforcement: Pursuant to UCA Section 19-4-113(3)(c), if a retail water supplier or wholesale water supplier notifies the county of a violation of the ordinance, and the county within ten days of receiving the notice advises the supplier that it will not seek enforcement of the ordinance, the supplier may proceed to enforce the ordinance in the district court. If the county does not respond within ten days of receiving the notice, it will be deemed that the county will not seek enforcement of the ordinance, and the supplier may proceed to enforce the ordinance in the district court. If the county notifies the supplier within ten days of receiving the notice that it will seek enforcement of the ordinance, the supplier may not take enforcement

action. Where a violation of the ordinance may cause irreparable harm to the groundwater source, a retail water supplier or wholesale water supplier may seek enforcement in the district court, if the county does not seek enforcement within two days of receiving a notice of the violation from the supplier.

Section 8. Alleged Overly Protective Zones: If a party disagrees with the boundaries of a drinking water source protection zone, such boundaries may be disputed according to the following procedure:

(a) Applicant submits written comments to the public drinking water system stating the reasons that the protection zone boundaries are being disputed.

(b) If the public drinking water system concurs, it may authorize a new hydrogeologic investigation at the expense of the one disputing the delineations or elect to conduct a new hydrogeologic investigation at its own expense if it appears that the boundary was established without considering geologic/hydrogeologic data.

(c) If the public drinking water system declines to authorize a new hydrogeologic investigation, the applicant may appeal this determination to the County. In the event that the County authorizes a new investigation, it shall be conducted at the expense of the applicant.

(d) Upon completion, the new hydrogeologic investigation shall be submitted to the Utah Division of Drinking Water for review.

(e) If the Division of Drinking Water finds that the new hydrogeologic investigation meets the requirements of UAC R309-600, the County may enforce this ordinance according to the new hydrogeologic investigation.

This Ordinance shall be effective as of _____(date). All ordinances and parts or ordinances in conflict herewith shall not be and the same are hereby repealed.

ENACTED AND ADOPTED this _____ day of _____, 20__.

Mayor

Attest: _____ County Clerk