

**AN ORDINANCE OF BOX ELDER COUNTY AMENDING ORDINANCE NO. 121 AND ESTABLISHING DRINKING WATER SOURCE PROTECTION.**

WHEREAS, the County is authorized to enact zoning ordinances to promote the health, safety, and welfare of its residents;

WHEREAS, many residents of Box Elder County receive drinking water from public water systems in the County;

WHEREAS, the Utah Safe Drinking Water Act is intended to ensure that all citizens in the state of Utah have access to safe water supplies for their domestic and culinary needs;

WHEREAS, the Utah Division of Drinking Water has adopted drinking water source protection regulations pursuant to the Utah Safe Drinking Water Act that are intended to protect the groundwater sources used by public water systems to provide drinking water from contamination;

WHEREAS, the Utah Division of Drinking Water's drinking water source protection regulations require public water systems to develop plans to protect their sources of groundwater used for drinking water from contamination;

WHEREAS, Box Elder County's interest in promoting the health, safety, and welfare of its residents coincides with the state's interest in encouraging public water systems to protect their sources of groundwater used for drinking water from contamination;

WHEREAS, it is in the best interests of the residents of Box Elder County that the County's zoning ordinances be amended so as to protect the sources of groundwater used by public water systems in the County to provide drinking water to residents of the County.

NOW BE IT AND IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BOX ELDER COUNTY as follows:

SECTION 1: Box Elder County Ordinance No. 121 is hereby amended by this Ordinance, upon the terms and conditions hereof, as follows:

**Drinking Water Source Protection.**

**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 ensure the provision of a safe and sanitary drinking water supply to the residents of Box Elder County who receive water for culinary and domestic use from public water systems in the County by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs used by public water systems in the County and by the designation and regulation of property uses and conditions that may be maintained within such zones.

## 2. Definitions

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

(a) "Design Standard" means a control that is implemented by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

(b) "Drinking Water Source Protection (DWSP) Zone" means the surface and subsurface area surrounding a groundwater source of drinking water supplying a public water system through which contaminants are reasonably likely to move toward and reach such groundwater source.

(c) "Groundwater Source" means any well, spring, tunnel, adit, or other underground opening from or through which groundwater flows or is pumped from subsurface water-bearing formations.

(d) "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, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions clarify the meaning of "pollution source:"

(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). A copy of this document may be obtained from: Section 313 Document Distribution Center, P.O. Box 12505, Cincinnati, OH 45212.

(e) "Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

(f) "Public water system" means a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

- (1) Has at least 15 service connections, or
- (2) Serves an average of at least 25 individuals daily at least 60 days out of the year.

Such term includes collection, treatment, storage and distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

(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) "Sanitary sewer line" means a pipeline that connects a residence or other building with a sanitary sewer.

(i) "Septic tank/drain-field system" means a system which is comprised of a septic tank and a drain field which 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.

(j) "Spring" means the ground surface outlet of a natural underground spring including Spring collection and control boxes, valves, piping and other attachments.

(k) "Storm water infiltration structure" means a structure that is intended to discharge storm water so that it infiltrates groundwater.

(l) "Underground storage tanks" means underground tanks used for the storage of gas, oil, or other hazardous substances.

(m) "Wellhead" means the physical structure, facility, or device at the land surface from or through which groundwater flows or is pumped from subsurface, water-bearing formations.

### **3. Establishment of Drinking Water Source Protection Zones.**

There is hereby established the following four use districts to be known as drinking water source protection zones one, two, three, and four:

(a) "Zone one" is the area within a 100-foot radius from the wellhead or margin of the collection area.

(b) "Zone two" is the area within a 250-day groundwater 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 groundwater divide, whichever is closer.

(c) "Zone three" is the area within a 3-year groundwater 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 groundwater divide, whichever is closer.

(d) "Zone four" is the area within a 15-year groundwater 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 groundwater divide, whichever is closer.

4. Identification of public water systems and their drinking water source protection zones in Box Elder County.

After a public water system in Box Elder County submits its drinking water source protection plan to the Utah Division of Drinking Water pursuant to the Division's drinking water source protection regulations, as amended, and the Division provides written notice to the public water system of its approval of the plan, the public water system shall, at its sole cost and expense, provide the Box Elder County Building Permit and Surveyor's Office with a map, and any additional information required by the Office, identifying the four drinking water source protection zones the public water system designates for each of its sources of groundwater for drinking water in the plan approved by the Division. The Box Elder County Building Permit and Surveyor's Office shall then incorporate this information on a map of the County that it shall prepare and maintain which identifies each public water system's sources of groundwater for drinking water and the four drinking water source protection zones for each source of groundwater. It shall be the duty of each public water system, at its sole cost and expense, to submit any updated information as necessary to the Box Elder County Building Permit and Surveyor's Office.

\* 5. Permitted Uses.

(a) In Zones One, Two, Three, and Four, each use established before the effective date of this Ordinance, and uses incidental and accessory to such use, may be continued in the same manner thereafter, provided that such use is not determined by any court of competent jurisdiction to be a nuisance under the provisions of federal, state, and/or local laws or regulations.

(b) In addition to the uses permitted under Paragraph 5(a) herein, the following uses, including uses incidental and accessory to that use, shall be allowed within the respective drinking water source protection zones:

(1) Zone One.

(a) No uses in addition to that allowed under Paragraph 5(a) herein are allowed in Zone One.

(2) Zone Two.

(a) Use of single or multiple-family residential dwellings, commercial, or institutional uses established on or after the effective date of this Ordinance, provided that such uses are connected to a sanitary sewer system.

(3) Zone Three.

- (a) Use of single or multiple-family residential dwellings, commercial, or institutional uses established on or after the effective date of this Ordinance.

(4) Zone Four.

- (a) Use of single or multiple-family residential dwellings, commercial, or institutional uses established on or after the effective date of this Ordinance.
- (b) The tilling of the soil and the raising of crops, provided that the use of fertilizers and pesticides is accomplished within applicable federal, state, and/or local requirements.
- (c) The pasturing of livestock, provided all forage is raised on the pastured area.

\* (c) In addition to the permitted uses specified in Paragraphs 5(a) and 5(b) herein, certain of the uses prohibited in Zones Two, Three, and Four pursuant to Paragraph 6 herein may be allowed in Zones Two, Three, and Four, respectively, if design standards are implemented for the specific use that will prevent contaminated discharges to ground water.

\* 6. Prohibited Uses.

(a) Subject to Paragraph 5(c) herein, the following uses are prohibited within the following drinking water source protection zones:

(1) Zone One. All uses that fall within the definition in this Ordinance of "pollution source" or "potential contamination source," including the following, are prohibited in Zone One:

- (a) Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).
- (b) Sanitary landfills.
- (c) Hazardous waste or material disposal sites.
- (d) Septic tanks/drain field systems
- (e) Sanitary sewer lines within 150 feet of a wellhead or spring collection area.

- (f) Underground storage tanks.
- (g) Storm water infiltration structures.
- (h) Any pollution source as defined herein or in Rule 309-113-101, as amended, of the Division of Drinking Water's drinking water source protection regulations.
- (i) Agriculture industries including but not limited to intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.

(2) Zone Two.

- (a) Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).
- (b) Sanitary landfills.
- (c) Hazardous waste or material disposal sites.
- (d) Septic tanks/drain field systems
- (e) Sanitary sewer lines within 150 feet of a wellhead or spring collection area.
- (f) Underground storage tanks.
- (g) Storm water infiltration structures.
- (h) Any pollution source as defined herein or in Rule 309-113-101, as amended, of the Division of Drinking Water's drinking water source protection regulations.
- (i) Agriculture industries including but not limited to intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.

(3) Zone Three.

- (a) Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).

- (b) Sanitary landfills.
  - (c) Hazardous waste or material disposal sites.
  - (e) Agriculture industries including but not limited to intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.
- (4) Zone Four.
- (a) Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).
  - (b) Sanitary landfills.
  - (c) Hazardous waste or material disposal sites.

**7. Drinking Water Source Protection Requirements**

Except as provided in Paragraph 8(a) herein, following the effective date of this Ordinance, no building permit or other form of approval from the County to develop or use real property within the County shall be issued until the applicant establishes that its proposed development or use of real property complies with the requirements of this Ordinance.

**8. Transition from and preemption of Ordinance No. 121**

(a) Until such time that a public water system submits its drinking water source protection plan to the Utah Division of Drinking Water, the Division provides written notice to the public water system of its approval of the plan, and the public water system provides the Box Elder County Building Permit and Surveyor's Office with a map and any additional information required by the Office identifying the public water system's sources of groundwater for drinking water and the four drinking water source protection zones for each of the sources, no building permit or other form of approval from the County to develop or use real property within the County shall be issued unless the applicant establishes that its proposed development or use of real property complies with the requirements of Ordinance No. 121 ("An Ordinance Providing for the Protection of Culinary Water Supply, Zoning Protection Strip"), if applicable, to the applicant's proposed development or use of real property.

(b) After a public water system submits its drinking water source protection plan to the Utah Division of Drinking Water, the Division provides written notice to the public water system of its approval of the plan, and the public water system provides the Box Elder County Building Permit and Surveyor's Office with a map and any additional information required by the Office identifying the public water system's sources of groundwater for drinking water and the four drinking water source protection zones for each of the sources, no building permit or other form of approval from the County to develop or use real property within the County shall be issued

unless the applicant establishes that its proposed development or use of real property complies with the requirements of this Ordinance.

(c) In the event that a proposed development or use of real property in Box Elder County might be subject to the requirements of Ordinance No. 121 and this Ordinance, the requirements of this Ordinance shall preempt and supersede the requirements of Ordinance No. 121.

## **9. Administration**

The policies and procedures or administration of any drinking water source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, variances and exceptions, and enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Box Elder County, Utah, as the same is presently enacted or may from time to time be amended.

This Ordinance shall take effect immediately upon its adoption and first publication.

**SECTION 2:** Ordinance No. 121 ("An Ordinance Providing for the Protection of Culinary Water Supply, Zoning Strip Protection") of the Box Elder County Code is hereby amended to include a new Paragraph 17 that shall provide in the entirety as follows:

### **17. Transition to and preemption by Ordinance No. 216 ("Drinking Water Source Protection")**

(a) Following the effective date of Ordinance No. 216 ("Drinking Water Source Protection Ordinance"), until such time that a public water system submits its drinking water source protection plan to the Utah Division of Drinking Water, the Division provides written notice to the public water system of its approval of the plan, and the public water system provides the Box Elder County Building Permit and Surveyor's Office with a map and any additional information required by the Office identifying the public water system's sources of groundwater for drinking water and the four drinking water source protection zones for each of the sources, no building permit or other form of approval from the County to develop or use real property within the County shall be issued unless the applicant establishes that its proposed development or use of real property complies with the requirements of Ordinance No. 121 ("An Ordinance Providing for the Protection of Culinary Water Supply, Zoning Protection Strip"), if applicable, to the applicant's proposed development or use of real property

(b) Following the effective date of Ordinance No. 216, after a public water system submits its drinking water source protection plan to the Utah Division of Drinking Water pursuant to its drinking water source protection regulations, as amended, the Division provides written notice to the public water system of its approval of the plan, and the public water system provides the Box Elder County Building Permit and Surveyor's Office with a map and any additional information required by the Office identifying the public water system's sources of groundwater for drinking water and the four drinking water source protection zones for each of the sources, as provided in Paragraph 4 of Ordinance No. 216, no building permit or other form of approval from the County to develop or use real property within the County shall be issued unless the applicant establishes that its proposed development or use of real property complies with the requirements of Ordinance No. 216.

(c) Following the effective date of Ordinance No. 216, in the event that a proposed development or use of real property in Box Elder County might be subject to the requirements of Ordinance No. 121 and Ordinance No. 216, the requirements of Ordinance No. 216 shall preempt and supersede the requirements of Ordinance No. 121.

PASSED, ADOPTED AND ORDERED PUBLISHED this 20<sup>th</sup> day of January, ~~1997~~<sup>x</sup> 1998.

BOX ELDER COUNTY

R. Lee Allen  
Jay Hardy  
Royal K. Norman

Voting Aye  
Voting Aye  
Voting Aye

  
Chairman, Board of County Commissioners

ATTEST:

  
County Recorder/Clerk

Published on the 28<sup>th</sup> day of January, 1998, in the Box Elder News Journal.

