

63 (E) "Pollution source" means point source discharges of contaminants to ground
64 water or potential discharges of the liquid forms of "extremely hazardous substances"
65 which are stored in containers in excess of "applicable threshold planning quantities" as
66 specified in SARA Title III. Examples of possible pollution sources include, but are not
67 limited to, the following: storage facilities that store the liquid forms of extremely
68 hazardous substances, septic tanks, drain fields, class V underground injection wells,
69 landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit
70 privies, drain lines, and animal feeding operations with more than 100 animal units.

71 The following definitions are part of R309-600 and clarify the meaning of "pollution
72 source:"

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

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

86 (iii) "Extremely hazardous substances" means those substances which are
87 identified in the Sec. 302(EHS) column of the "Title III List of Lists:
88 Consolidated List of Chemicals Subject to the Emergency Planning and
89 Community Right-to-Know Act (EPCRA) and Section 112(R) of the Clean Air
90 Act, As Amended," (550B98017). A copy of this document may be obtained
91 from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also
92 available at <http://www.epa.gov/ncepihom/orderpub.html>.

93 (F) "Potential Contamination Source" means any facility, use or site that employs an
94 activity or procedure which may potentially contaminate ground water, whether it
95 currently does or not. A pollution source is also a potential contamination source.
96

97 (G) "Prohibited Uses" means a land use, activity, or practice that creates a substantial
98 risk of contamination in the specified drinking water source protection zone. Such uses
99 are not permitted.

100
101 (H) "Protected aquifer" means a producing aquifer in which the following conditions
102 are met:

- 103
104 1. A naturally protective layer of clay, at least 30 feet in thickness, is present above
105 the aquifer;
106 2. The Public Drinking Water System provides data to indicate the lateral
107 continuity of the clay layer to the extent of zone two; and
108 3. The public-supply well is grouted with a grout seal that extends from the ground
109 surface down to at least 100 feet below the surface, and for a thickness of at least
110 30 feet through the protective clay layer.

111
112 (I) "Public Drinking Water System" means a water system, either publicly or
113 privately owned, providing water for human consumption and other domestic uses,
114 which:

- 115 1. Has at least 15 service connections, or
116 2. Serves an average of at least 25 individuals daily at least 60 days of the year.
117 A public water system consisting of at least 8 residential service connections
118 shall be deemed to serve 25 individuals.
119

120 (J) “Regulatory Agency” means any governmental agency (local, state, and/or
121 federal) with jurisdiction over drinking water, pollution sources, potential contamination
122 sources and hazardous substances as defined herein.
123

124 (K) “Secondary Containment” means a type of system or design standard that is used
125 to provide release detection and prevention, such as trays under containers, floor curbing
126 or other systems designed to hold materials or liquids that may discharge from containers
127 holding a potential contaminant. Examples include a double-walled tank, a double-walled
128 integral piping system, or a single-walled tank or integral piping system that is protected
129 by an enclosed concrete vault, liner, or an impervious containment area.
130

131 (L) “Septic Tank/Drain-Field Systems” means a wastewater system, which is
132 comprised of a septic tank and a drain-field, which accepts wastewater from buildings or
133 facilities for surface or subsurface treatment and disposal.
134

135 (M) “Time of Travel Distance” The distance that groundwater will travel in a specified
136 time. This distance is generally a function of the permeability and slope of the aquifer.
137 Time of Travel is determined from hydrological studies and is approved by the State
138 Department of Environmental Quality, Division of Drinking Water.
139

140 (N) “Unprotected aquifer” means any aquifer that does not meet the definition of a
141 protected aquifer.
142

143 (O) “Wellhead” means the upper terminal of a well, including adapters, ports, seals,
144 valves and other attachments.
145

146 **SECTION 3. RESPONSIBILITY OF PUBLIC DRINKING WATER SYSTEMS.** It shall
147 be the responsibility of the Public Drinking Water Systems of Duchesne County to submit a
148 drinking water source protection plan to the Utah Division of Drinking Water pursuant to state
149 administrative rule. Once the Division of Drinking Water has accepted said plan, the Public
150 Drinking Water System or the Division of Drinking Water shall provide Duchesne County with
151 electronic data and maps showing the Drinking Water Source Protection Zones that have been
152 established.
153

154 **SECTION 4. ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION**
155 **ZONES.** There are hereby established use districts to be known as Drinking Water Source
156 Protection Zones as identified and described below:
157

158 (A) Zone One is the area within a 100-foot radius from a wellhead or spring source.
159

160 (B) Zone Two is the area within a 250-day groundwater time of travel distance to a
161 wellhead or spring source, the boundary of the aquifer(s) which supplies water to the
162 groundwater source, or the groundwater divide, whichever is closer, as specified on the
163 “Drinking Water Source Protection Zone Map” on file with the County.
164

165 The boundaries of the drinking water source protection zones are shown on the “Drinking Water
166 Source Protection Zone Map” on file with the County, which is incorporated and made part of
167 this ordinance by reference. Due to the sensitivity of such data, the map shall be made available
168 only through a GRAMA request. It shall be the responsibility of the Public Drinking Water
169 System to notify the County and the Culinary Water Authority of any amendments to these
170 maps.
171

172 **SECTION 5. PERMITTED USES.** The following land uses shall be permitted within
173 drinking water source protection zones:
174

175 (A) Any land use permitted within existing agricultural, residential and commercial
176 districts so long as uses conform to the rules and regulations of the regulatory agencies
177 and this Ordinance. Applicable rules include, but are not limited to: Utah Administrative
178 Rule R309-600 and rules adopted by the Culinary Water Authority and the
179 Environmental Protection Agency.
180

181 (B) Any other open land use where any building located on the property is incidental
182 and accessory to the primary open land use.

183
184 (C) Any land use established before the effective date of this Ordinance, and uses
185 incidental and accessory to such use, may be continued in the same manner thereafter,
186 provided that such use is not determined by any court of competent jurisdiction to be a
187 nuisance or health hazard under the provisions of federal, state, and/or local laws or
188 regulations.

189
190 **SECTION 6. PROHIBITED USES.** The following land uses or conditions established after
191 the effective date of this Ordinance are hereby prohibited within drinking water source protection
192 zones:

193
194 (A) Zone One (for all aquifer types) - The location of an uncontrolled potential
195 contamination source or pollution sources as defined herein.

196
197 (B) Zone Two (in unprotected aquifers) - The location of pollution sources as defined
198 herein, unless their contaminated discharges are controlled with design standards which
199 prevent contaminated discharges to ground water.

200
201 **SECTION 7. ALLEGED OVERLY PROTECTIVE ZONES.** If a party disagrees with the
202 boundaries of a drinking water source protection zone, such boundaries may be disputed
203 according to the following procedure:

204
205 (A) Applicant submits written comments to the Public Drinking Water System stating the
206 reasons that the protection zone boundaries are being disputed.

207
208 (B) If the Public Drinking Water System concurs, it may authorize a new hydrogeologic
209 investigation at the expense of the one disputing the delineations or elect to conduct a
210 new hydrogeologic investigation at its own expense, or by negotiating a sharing of
211 expenses, if it appears that the boundary was established without considering
212 geologic/hydrogeologic data.

213
214 (C) If the Public Drinking Water System declines to authorize a new hydrogeologic
215 investigation, the applicant may appeal this determination to the Duchesne County
216 Commissioners. In the event that the County authorizes a new investigation, it shall be
217 conducted at the expense of the applicant or at the negotiated expense of the parties.

218
219 (D) Upon completion, the new hydrogeologic investigation shall be submitted to the Utah
220 Division of Drinking Water for review.

221
222 (E) If the Division of Drinking Water finds that the new hydrogeologic investigation is
223 sufficiently protective and meets the requirements of a delineation report according to the
224 Utah Drinking Water Source Protection for Ground Water Sources Rule (R309-600, Utah
225 Administrative Code), the county may enforce this ordinance according to the new
226 hydrogeologic investigation.

227
228 **SECTION 8. ADMINISTRATION.** The policies and procedures for administration of any
229 drinking water source protection zone established under this ordinance, including nonconforming
230 uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning
231 ordinance for Duchesne County, as presently enacted and as may be amended after the date of
232 this Ordinance. Exception: the applicable land use authority cannot grant a variance to the
233 requirements of this Ordinance until the request is reviewed and the Culinary Water Authority
234 and Public Drinking Water System provide a recommendation. If it is necessary to have
235 additional expertise to evaluate the variance, it shall be at the expense of the entity requesting the
236 variance.

237
238 If there are non-compliant potential contamination sources found in the drinking water source
239 protection zones that cannot be resolved by the Public Drinking Water System, such matters
240 shall be referred to the applicable regulatory agency for enforcement.

241

242 **SECTION 9. ENFORCEMENT.** The Public Drinking Water System may seek enforcement
243 of this ordinance in District Court if:

244
245 (A) After providing notice of a violation to the County, the County notifies the Public
246 Drinking Water System within ten (10) working days that it will not seek
247 enforcement of the ordinance; or

248
249 (B) The County does not seek enforcement within two (2) days of a notice of violation
250 stating that the violation may cause irreparable harm to the groundwater source.
251

252 **SECTION 10. APPLICABILITY.** The applicability of this ordinance extends to both
253 incorporated and unincorporated sections of the County, unless an incorporated municipality
254 within the County enacts an ordinance in accordance with Utah Code Section 19-4-113 and/or
255 Utah Code Section 10-8-15.
256

257 **SECTION 11. APPEALS.** Any party aggrieved by a decision made by the Duchesne County
258 Community Development Administrator in the administration of this Ordinance may appeal to
259 the Duchesne County Planning Commission. Appeals of the Planning Commission may be made
260 to the Duchesne County Commissioners. Appeals of the Duchesne County Commissioners may
261 be made to District Court.
262

263 **SECTION 12. AUTHORIZED OFFICERS.** The officers of Duchesne County are hereby
264 authorized to take all action necessary or appropriate to effectuate the provisions of this
265 ordinance.
266

267 **SECTION 13. SURVIVAL CLAUSE.** If any one or more sections, sentences, clauses or parts
268 of this ordinance shall, for any reason, be held invalid, such judgment shall not affect, impair, or
269 invalidate the remaining provisions of this ordinance, but shall be confined in its operation to the
270 specific sections, sentences, clauses or parts of this ordinance so held unconstitutional or invalid;
271 and the inapplicability and invalidity of any section, sentence, clause or the part of this ordinance
272 shall not prejudice in any way the applicability and validity of this ordinance in any other
273 instance.
274

275 **SECTION 14. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon
276 passage.
277

278 DATED this 13th day of April, 2009.
279

280
281 ATTEST:

DUCHESNE COUNTY
BOARD OF COMMISSIONERS

282
283
284
285
286 _____
287 Diane Freston
288 County Clerk/Auditor

289 _____
290 Chairman

291 _____
292 Commissioner

293 _____
294 Commissioner
295
296
297
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