

SUMMIT COUNTY BOARD OF HEALTH
GROUNDWATER SOURCE PROTECTION

An Ordinance amending the Summit County Code of Health,
Chapter 5, Section 3

Preamble

WHEREAS, UCA §19-4-113 authorizes the enactment of water source protection ordinances by counties (the “Enacting Legislation”); and,

WHEREAS, the Drinking Water Board of the State of Utah (the “Drinking Water Board”) has promulgated Utah Administrative Code, R309-600, which provides regulations governing groundwater sources of drinking water; and,

WHEREAS, the Summit County Council (the “Council”) has enacted Summit County Code, Title 4, Chapter 6, Water Source Protection Zones, under the Enacting Legislation in an effort to protect water quality within the county; and,

WHEREAS, the Summit County Board of Health (the “Board”) finds that water quality issues constitute an important public health concern; and,

WHEREAS, the Board finds that it is in the best interests of county residents to coordinate the actions of the Drinking Water Board and the Council through a public health regulation promulgated by the Board;

NOW, THEREFORE, the Board of Health of Summit County, State of Utah, ordains as follows:

Section 1. **Amendment.** Summit County Code of Health, Title 1, Chapter 1, Definitions, and Title 1, Chapter 5, Section 3 (Water Source Protection) are hereby amended to add new definitions and replace the existing Section 1-5-3, which are published as a code in book form, copies of which have been filed for use and examination in the Summit County Health Department.

1-1-2 Definitions.

212. “Public Water System” (PWS) has the meaning set forth in Utah Administrative Code R309-110-4, Definitions and in R309-600, Source Protection: Drinking Water Source Protection for Groundwater Sources.

213. “Utah Administrative Code” or “Utah Administrative Rule” (UAC) means the administrative rules promulgated by agencies of the State of Utah in accordance with the Utah Administrative Rulemaking Act, UCA Title 63G, Chapter 3, and the Administrative Procedures Act, UCA Title 63G, Chapter 4.

214. “DWSP Area” means the surface and subsurface area surrounding a groundwater source of drinking water supplying a PWS, through which contaminants are reasonably likely to move toward and reach such groundwater source.

- 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 groundwater source, or the groundwater divide, whichever is closer. If the available data indicate a zone of increased groundwater velocity within the producing aquifer(s), then time-of-travel calculations shall be based on this data.
- 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 groundwater source, or the groundwater divide, whichever is closer. If the available data indicate a zone of increased groundwater velocity within the producing aquifer(s), then time-of-travel calculations shall be based on this data.
- 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 groundwater source, or the groundwater divide, whichever is closer. If the available data indicate a zone of increased groundwater velocity within the producing aquifer(s), then time-of-travel calculation shall be based on this data.

215. "Potential Contamination Source" means any facility or site which employs an activity or procedure which may potentially contaminate groundwater. Potential Contaminations Sources may also be applicable to a proposed land use which could potentially modify an existing DWSP Area through excavations, cuts and fills, or regrading a surface, in a manner which could jeopardize a natural groundwater protection boundary. A Pollution Source is also a Potential Contamination Source. Table 1 provides a list of some, but not all, possible Potential Contamination Sources for consideration when evaluating the health and safety impacts of a development application.

216. "Pollution Source" means point source discharges of contaminants to groundwater 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.

217. "Animal Feeding Operation" means a lot or facility where the following conditions are met: (a) animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and (b) 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.

218. "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.

219. "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 the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(R) of the Clean Air Act, As Amended," (550B98017). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at <http://www.epa.gov/ncepihom/orderpub.html>.
220. "Protected Aquifer" means a producing aquifer in which the following conditions are met:
- a. A naturally protective layer of clay, at least thirty (30) feet in thickness, is present above the aquifer;
 - b. The PWS provides data to indicate the lateral continuity of the clay layer to the extent of Zone Two; and
 - c. The public-supply well is grouted with a grout seal that extends from the ground surface down to at least one hundred (100) feet below the surface.
221. "Unprotected Aquifer" means any aquifer that does not meet the definition of a Protected Aquifer.
222. "Groundwater Source Protection Zone" means those areas designated within an approved Drinking Water Source Protection Plan in accordance with UAC R309-600.
223. "Water Utility Review" means the PWS review of a development application where the property subject to the development application is within an approved Drinking Water Source Protection Plan.
224. "Vested Land Use(s)" has the meaning set forth in Section 1-5-3(C)(1).
225. "New Land Use(s)" has the meaning set forth in Section 1-5-3(C)(2).

1-5-3 Water Source Protection.

A. Purpose and Incorporation of Legal Authority.

1. The purposes of this section are:
 - a. to assist Public Water Systems in the protection of their existing and new sources of drinking water from contamination;
 - b. to simplify the Utah Division of Drinking Water (DDW) permitting of new sources of drinking water; and
 - c. to reduce potential limitations on new land uses to the areas and activities that are most critical to protecting our drinking water.
2. This section applies to all drinking water wells, springs, and tunnels that are regulated by the DDW as part of an approved Public Water System and included in the DDW approved Drinking Water Source Protection Plan for the respective PWS.
3. Utah Administrative Code (UAC) R309-600, *Source Protection: Drinking Water Source Protection for Groundwater Sources* is hereby incorporated in its entirety by reference. See <https://rules.utah.gov/publicat/code/r309/r309-600.htm>. Definitions that are not provided in Section 1-1-2 herein shall have the meanings set forth in UAC R309-110 and R309-600.

B. Identification of Public Water Systems and Source Protection Plans.

1. UAC R309-600 requires public water systems to submit a “Drinking Water Source Protection Plan” to the DDW, for each of its groundwater sources of drinking water. All PWSs in Summit County shall comply with the provisions established in UAC R309-600.
2. PWSs shall update, review, and revise their Drinking Water Source Protection Plan in accordance with UAC R309-600-7 to ensure the accuracy and applicability of the

information contained within the plan. All changes, modifications, edits, and revisions shall be completed using the processes established in UAC R309-600.

3. Once the Drinking Water Source Protection Plan for a new groundwater source of drinking water is approved by the DDW, the PWS shall notify the Summit County Department of Community Development and the Health Department within thirty (30) calendar days of approval. This notification shall include the following information:
 - a. Letter of approval from the DDW;
 - b. Name, location, and type of the drinking water source;
 - c. Map showing the DWSP area (including zones designation) for the new drinking water source; and
 - d. The protected or unprotected classification of the new drinking water source.
4. Summit County shall maintain GIS data files in the form of a “Drinking Water Source Protection Map” for DDW approved groundwater sources using information provided by the DDW and the PWS.
5. Summit County shall use the information described in Section 1-5-3(B)(1) – (4) to determine if proposed new land uses fall within Groundwater Source Protection Zones and notify the development applicant, the PWS, and the Health Department if the proposal lies within a Groundwater Source Protection Zone as part of the application review and approval process for new development.
6. If an application for a proposed development, land use, or other activity is located within any zone set forth in an approved Drinking Water Source Protection Plan, Summit County will afford the affected PWS an opportunity to review the development application within a time frame set by the Summit County Director of Community Development (the “Director”), and provide comments, information, and/or evidence to the Director and to the Health Department with respect to the impacts of the development application on the Drinking Water Source Protection Plan (the “Water Utility Review”).

7. In the event of a conflict between the development applicant and the PWS with respect to the impacts of the development application on the Drinking Water Source Protection Plan, the Health Department shall select the method of mitigation that best protects the groundwater source based on the comments, information, and/or evidence provided, and in conjunction with this Section 1-5-3 and UAC R309-600. The Health Department reserves the right to seek input from qualified third party contractors, such as the Summit County Water Concurrency Engineer, when making this determination. Failure to obey the Health Department's determination, as set forth above, may result in (a) the refusal of the Public Health Officer to sign a subdivision plat; or (b) an enforcement action consistent with Section 1-1-8.
8. In the event that the Health Department notifies the PWS within ten (10) calendar days of receiving a notice of a violation of Section 1-5-3(B)(7) that the Health Department (a) will not seek enforcement; or (b) does not seek enforcement within two days of a notice of violation issued in accordance with Section 1-1-8 when the violation may cause irreparable harm to the groundwater source, the PWS shall be authorized to independently seek enforcement of Section 1-5-3(B)(7) in the Third Judicial District Court of Summit County, Utah.

C. Vested and New Land Uses

1. Each primary land use established before [effective date TBD], as well as any land uses incidental and accessory to such primary land uses, may be continued in the same manner thereafter and shall not be subject to Section 1-5-3; provided that such land use is not in violation of any other ordinance, health regulation, nor determined by a court of competent jurisdiction to be a nuisance under the provisions of federal, state, or local laws or health regulations (the "Vested Land Use(s)").
2. All new primary land uses, changes of land uses, or expansions of land uses which require a development permit issued by Summit County shall be subject to Section 1-5-3 (the "New Land Use(s)").

3. In the event that a New Land Use falls within any of the Groundwater Source Protection Zones, the Health Department shall secure written confirmation from the PWS that proper notification, per Section 1-5-3(B)(5), was given and that the PWS was afforded an opportunity to provide a Water Utility Review on the pending development application. Receipt of the Water Utility Review for a pending development application may be considered as written confirmation of Section 1-5-3(B)(5) notification.
4. The Water Utility Review shall be considered by the Health Department in making its determination, as set forth in Section 1-5-3(B)(7).

D. Prohibited Land Uses¹

1. **Zone One.** The following land uses are prohibited within Zone One:
 - a. Pollution Sources;
 - b. Uncontrolled Potential Contamination Sources; and
 - c. All sewer lines and laterals that are not at least 50 feet from the wellhead or margin of the collection area, and not constructed in accordance with standards described in UAC R309-515-6 for unprotected aquifers; and
 - d. All sewer lines and laterals that are not at least 10 feet from the wellhead or margin of the collection area, and not constructed in accordance with standards described in UAC R309-515-6 for protected aquifers
2. **Zone Two.**
 - a. Pollution Sources unless (i) the aquifer is protected; or (ii) design standards are implemented to eliminate any concern of potential contamination or pollution in order to protect, preserve, and promote the continued supply of the groundwater drinking source; and (iii) written

¹ These Prohibited Land Uses are separate and distinct from the prohibited land uses found in the Summit County Code and the various Use Tables found therein. These Prohibited Land Uses are based on UAC R309-600-10, R309-515-6, and the "Source Protection User's Guide for Ground-Water Sources," developed by the Utah Department of Environmental Quality.

approval is received by the Health Department from the responsible PWS confirming such use is allowed in the State-approved DWSP.

- b. All sewer lines and laterals not constructed in accordance with standards described in UAC R309-515-6

- 3. **Zone Three.** The following land uses are prohibited within Zone Three unless (i) design standards are implemented to eliminate any concern of potential contamination or pollution in order to protect, preserve, and promote the continued supply of the groundwater drinking source; and (ii) written approval is received by the Health Department from the responsible PWS confirming such use is allowed in the State-approved DWSP:

- a. Surface use, storage, or dumping of hazardous waste or material including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications with strict compliance to the manufacturer's recommendations of use);
- b. Sanitary landfills; or
- c. Hazardous waste or material disposal sites.

- 4. **Zone Four.** The following land uses are prohibited within Zone Four unless (i) design standards are implemented to eliminate any concern of potential contamination or pollution in order to protect, preserve, and promote the continued supply of the groundwater drinking source; and (ii) written approval is received by the Health Department from the responsible PWS confirming such use is allowed in the State-approved DWSP:

- a. Surface use, storage, or dumping of hazardous waste or material including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications with strict compliance to the manufacturers recommendations of use);
- b. Sanitary landfills; or
- c. Hazardous waste or material disposal sites.

E. Overlapping Protection Zones.

1. PWSs with overlapping Groundwater Source Protection Zones shall cooperate in resolving conflicts in the land management strategies contained in the applicable Drinking Water Source Protection Plans. If necessary, the DDW may assist in the resolution of any conflict.
2. In the event of a conflict between PWSs with overlapping Groundwater Source Protection Zones that cannot be resolved in thirty (30) calendar days following an impasse, the Health Department shall select the most restrictive provision, as previously approved as part of the DWSP, in order to protect the groundwater sources. The Health Department reserves the right to seek input from qualified third party contractors, such as the Summit County Water Concurrency Engineer, when making this determination. Failure to obey the Health Department's determination, as set forth above, may result in an enforcement action consistent with Section 1-1-8.
3. In the event that the Health Department notifies a PWS within ten (10) calendar days of receiving a notice of a violation of Section 1-5-3(E)(2) that the Health Department (a) will not seek enforcement; or (b) does not seek enforcement within two days of a notice of violation issued in accordance with Section 1-1-8 when the violation may cause irreparable harm to the groundwater source, the PWS shall be authorized to independently seek enforcement of Section 1-5-3(E)(2) in the Third Judicial District Court of Summit County, Utah.

Table 1. Master List of Possible Potential Contamination Sources (PCSs)

1. Active and abandoned wells	2. Agricultural pesticide, herbicide, and fertilizer storage, use, filling, and mixing areas
3. Airport maintenance and fueling sites	4. Animal feeding operations with more than ten animal units
5. Animal watering troughs located near unfenced wells and springs that attract livestock	6. Auto washes
7. Beauty salons	8. Boatbuilders and refinishers
9. Chemical reclamation facilities	10. Chemigation wells
11. Concrete, asphalt, tar, and coal companies	12. Dry cleaners
13. Farm dump sites	14. Farm maintenance garages
15. Feedlots	16. Food processors, meat packers, and slaughter-houses
17. Fuel and oil distributors and storers	18. Furniture strippers, painters, finishers, and appliance repairers
19. Graveyards, golf courses, parks, and nurseries	20. Heating oil storers
21. Industrial manufacturers: chemicals, pesticides, herbicides, paper and leather products, textiles, rubber, plastic, fiberglass, silicone, glass, pharmaceutical, and electrical equipment, etc.	22. Industrial waste disposal/impoundment areas and municipal wastewater treatment plants, landfills, dumps, and transfer stations
23. Junk and salvage yards	24. Laundromats
25. Machine shops, metal platers, heat treaters, smelters, annealers, and descalers	26. Manure piles
27. Medical, dental, and veterinarian offices	28. Mortuaries
29. Mining operations	30. Muffler shops
31. Pesticide and herbicide storers and retailers	32. Photo processors

33. Print shops	34. Radiological mining operations
35. Railroad yards	36. Research laboratories
37. Residential pesticide, herbicide, and fertilizer storage, use, filling and mixing areas	38. Residential underground storage tanks
39. Roads, highways, and freeways	40. Salt and sand-salt piles
41. Sand and gravel mining operations	42. School vehicle maintenance barns
43. Sewer lines	44. Single-family septic tank/drain-field systems
45. Sites of reported spills	46. Small engine repair shops
47. Stormwater impoundment sites and snow dumps	48. Subdivisions using subsurface disposal systems (large and individual septic tank/drain-field systems)
49. Submersible pumps used to pump wells	50. Taxi cab maintenance garages
51. Tire shops	52. Toxic chemical and oil pipelines
53. Vehicle chemical supply storers and retailers	54. Vehicle dealerships
55. Vehicle quick lubes	56. Vehicle rental shops
57. Vehicle repair, body shops, and rust proofers	58. Vehicle service stations and terminals
59. Wood preservers	

Section 2. Savings Clause. In the event one or more of the provisions of this Ordinance shall, for any reason, be held to be unenforceable or invalid in any respect under any applicable laws, such unenforceability or invalidity shall not affect any other provision; and in such an event, this Ordinance shall be construed as if such unenforceable or invalid provision had never been contained therein.

Section 3. Effective Date. This Ordinance shall take effect on _____.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Board of Health, this ____ day of _____, 2019.

SUMMIT COUNTY BOARD OF HEALTH

Ilyssa Golding, Chair

SUMMIT COUNTY HEALTH OFFICER

Richard Bullough, PhD
Public Health Officer

APPROVED AS TO FORM:

David L. Thomas
Chief Civil Deputy

VOTING OF BOARD OF HEALTH:

Member Heidi Jaeger: _____
Member Marc Watterson: _____
Member Dorothy Adams: _____
Member Chris Ure: _____
Member Kim Carson: _____
Member Doug Evans: _____