

19-4-113 Water source protection ordinance required.

- (1)
 - (a) Before May 3, 2010, a first or second class county shall:
 - (i) adopt an ordinance in compliance with this section after:
 - (A) considering the rules established by the board to protect a watershed or water source used by a public water system;
 - (B) consulting with a wholesale water supplier or retail water supplier whose drinking water source is within the county's jurisdiction;
 - (C) considering the effect of the proposed ordinance on:
 - (I) agriculture production within an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas; and
 - (II) a manufacturing, industrial, or mining operation within the county's jurisdiction; and
 - (D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and
 - (ii) file a copy of the ordinance with the board.
 - (b) A municipality in a first or second class county may adopt an ordinance that a first or second class county is required to adopt by this section by following the procedures and requirements of this section.
- (2)
 - (a) A county ordinance adopted in accordance with this section applies to the incorporated and unincorporated areas of the county unless a municipality adopts an ordinance in accordance with this section.
 - (b) A municipal ordinance adopted in accordance with this section supercedes, within the municipality's jurisdiction, a county ordinance adopted in accordance with this section.
- (3) An ordinance required or authorized by this section at a minimum shall:
 - (a) designate a drinking water source protection zone in accordance with Subsection (4) for a groundwater source that is:
 - (i) used by a public water system; and
 - (ii) located within the county's or municipality's jurisdiction;
 - (b) contain a zoning provision regulating the storage, handling, use, or production of a hazardous or toxic substance within a drinking water source protection zone designated under Subsection (3)(a); and
 - (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of the ordinance provision required by Subsections (3)(a) and (b) in a district court located within the county or municipality if the county or municipality:
 - (i) notifies the retail water supplier or wholesale water supplier within 10 days of receiving notice of a violation of the ordinance that the county or municipality will not seek enforcement of the ordinance; or
 - (ii) does not seek enforcement within two days of a notice of violation of the ordinance when the violation may cause irreparable harm to the groundwater source.
- (4) A county shall designate a drinking water source protection zone required by Subsection (3)(a) within:
 - (a) a 100 foot radius from the groundwater source; and
 - (b) a 250 day groundwater time of travel to the groundwater source if the supplier calculates the time of travel in the public water system's drinking water source protection plan in accordance with board rules.
- (5) A zoning provision required by Subsection (3)(b) is not subject to Subsection 17-41-402(3).

- (6) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or authorized by this section to the extent that the ordinances conflict.
- (7) The board shall:
 - (a) provide information, guidelines, and technical resources to a county or municipality preparing and implementing an ordinance in accordance with this section; and
 - (b) report to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2010 on:
 - (i) compliance with this section's requirement to adopt an ordinance to protect a public drinking water source; and
 - (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking water.

Amended by Chapter 173, 2009 General Session