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PLEASE USE THIS MODEL ORDINANCE PATTERNED AFTER AN ENVIRONMENTAL PROTECTION AGENCY (EPA) MODEL ORDINANCE AS A GUIDE FOR PROTECTION AGAINST PUBLIC WATER SUPPLY CONTAMINATION. IT IS ADVISED YOU HAVE THE ORDINANCE REVIEWED BY APPROPRIATE LEGAL COUNSEL BEFORE ENACTMENT.

Section 1 Title and Purpose

This ordinance, titled the Ground Water Protection Ordinance, establishes a zoning overlay district to be known as the Drinking Water Protection Critical Area.

The purpose of the Drinking Water Protection Critical Area is to protect ground water from contamination.

Be it ordained on this _____ Day of _____ , 200_ , by the (governing body) of (town/city/parish), State of Louisiana the following:

Section 2 Authority

The Drinking Water Protection Critical Area is an overlay district superimposed on the zoning districts in the (town/city/parish) of _____, and shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Activities/facilities/uses must comply with the requirements of both the Drinking Water Protection Critical Area and any underlying zoning district.

Section 3 Definitions

ABANDONED WATER WELL. A well that's use has been permanently discontinued; its pumping equipment has been permanently removed; the well is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into an aquifer; the well poses potential health or safety hazards, or the well is in such a condition that it cannot be placed in the active, standby, or inactive status.

APPLICANT. Person or persons applying for a special permit for a facility within the Drinking Water Protection Critical Area.

ANIMAL FEEDLOT/ DAIRIES. A lot or facility (other than an aquatic animal production facility) where animals have been, are, 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.

AQUIFER. A water-bearing rock, sand or gravel layer that will yield water in a usable quantity to a well or spring.

CLASS I WELL. Wells used to inject hazardous wastes or dispose of non-hazardous industrial waste and treated municipal sewage below the deepest underground source of drinking water.

CLASS II WELL. Wells used to inject fluids associated with the production of oil and natural gas or fluids and compounds used for enhanced hydrocarbon recovery. These

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wells normally inject below the deepest underground source of drinking water (USDW) except in cases where the USDW contains producible quantities of oil or gas.

CLASS III WELL. Wells that inject fluids used in subsurface mining of minerals.

CLASS V WELL. Wells not included in the other classes that inject nonhazardous fluid into or above an underground source of drinking water. (The seven major types of Class V wells include drainage wells, geothermal reinjection wells, domestic wastewater disposal wells, mineral and fossil fuel recovery related wells, industrial/commercial/utility disposal wells, recharge wells and miscellaneous wells. Class V injection wells also include all large-capacity cesspools and motor vehicle waste disposal wells.)

CONTAMINATION. The presence of a material that may cause or significantly contribute to a present or potential risk to human health, safety, welfare, or that is present in ground water resources or to the natural environment such that it degrades the quality of the resource so as to constitute a hazard and/or impair its use.

DELINEATION. Determining the outline or shape of a drinking water protection area.

DRINKING WATER PROTECTION AREA. The area around a drinking water source, such as a well or surface water intake, such as delineated by the Louisiana Department of Environmental Quality as part of the Source Water Assessment Program. This area is shown on Source Water Assessment Program maps and contains the Drinking Water Protection Critical Area.

DRINKING WATER PROTECTION CRITICAL AREA. The zoning district defined to overlay other zoning districts in the (town, city, parish) of _____. This district is defined as the area within a 1000 ft. radial boundary from drinking water wells that have been identified and mapped by the Louisiana Department of Environmental Quality as part of the Source Water Assessment Program. (Based on research, the natural breakdown and degradation of many contaminants beyond 1000 ft. reduces the risk of contaminants outside the critical area from reaching the well).

GROUND WATER. The water contained in the interconnected pores located below the ground in an aquifer.

HAZARDOUS MATERIALS. A material that may cause or significantly contribute to a present or potential risk to human health, safety, welfare, to ground water resources or to the natural environment.

OR

That is defined in the following categories:
Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline. Carcinogenic: A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB's in some waste oils. Explosive: A reactive gas, liquid or solid that will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate. Highly toxic: A gas, liquid, or solid so dangerous to man as to afford unusual hazard of life. Example: chlorine gas. Moderately Toxic: A gas, liquid or solid that through repeated exposure or in a single large dose can be hazardous to man. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of

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hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

OR

The following items listed below and by-products, reaction products, or waste products generated from the use, handling, storage, or production of these items.
Acid and base cleaning solutions, antifreeze and coolants, new or used, arsenic and arsenic compounds, batteries, new and used, brake and transmission fluid, oils/greases/lubricants, brine solution casting and foundry chemicals, caulking agents and sealants, cleaning solvents, cutting fluids, degreasing solvents, disinfectants, electroplating solutions, explosives, fertilizers, food processing wastes, fuels and additives, glues, adhesives, and resins, greases, hydraulic fluid industrial and commercial janitorial supplies, industrial sludges and stillbottoms, inks, printing and photocopying chemical, laboratory chemicals, metal finishing solutions, oils (petroleum based), paints, primers, thinners, dyes, stains, wood preservatives, paint solvents, and paint removing compounds, pesticides and herbicides, plastic resins and catalysts, plasticizers, photo development chemicals, pool chemicals, roofing chemicals and sealers, solders and fluxes, tanning industry chemicals, transformer and capacitor oils/fluids.

IMPERVIOUS SURFACE. A surface covered by a material that is relatively impermeable to water.

INACTIVE WATER WELL. A well is considered to be inactive if it is not presently operating but is maintained in such a way that it can be put back in operation, with a minimum of effort, to supply water.

NORMAL HOUSEHOLD USE. Storage or use of a hazardous material in quantities less than 5 gallons if liquid or 50 pounds if solid.

PERSON. An individual, corporation, joint venture, incorporated association, public or private corporation, partnership, governmental body or other similar entity, public or private.

PROMISCUOUS DUMP. Any collection of solid waste either dumped or caused to be dumped or placed on any property either public or private, whether or not regularly used, and not authorized by the administrative authority (Louisiana Department of Environmental Quality).

PUBLIC WATER SUPPLY. A water supply that provides water through constructed conveyances to the public for at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily for at least sixty days per year.

SANITARY LANDFILL. A landfill for the disposal of commercial or residential solid waste by deposit in a landfill in layers covered with suitable cover material of a depth and at a frequency adequate to control disease vectors and odors, and in such a manner that minimizes the risk to human health and the environment.

SECURED STORAGE. Natural or created barrier to site ingress or egress around the entire perimeter of the hazardous materials storage area.

SOURCE WATER ASSESSMENT PROGRAM. Section 1453 of the Safe Drinking Water Act Amendments of 1996 required each state to develop a Source Water Assessment Program that will: delineate areas providing drinking water for all public water supplies (ground water and surface water) and inventory drinking water supplies for potential contaminants which may have adverse effects on human health.

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WELL. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying ground water to the surface, monitoring ground water levels or other characteristics, providing cathodic protection, or providing a method of injecting water into the aquifer system from above the earth's surface.

Section 4 Establishment and Delineation of the Drinking Water Protection Critical Area.

For the purposes of this district, there are hereby established within the (town/city/parish) certain Drinking Water Protection Critical Areas. The Drinking Water Protection Critical Area is defined as the area within a 1000 ft. radial boundary from any drinking water well that has been identified and mapped by the Louisiana Department of Environmental Quality as part of the Source Water Assessment Program. The maps are available for viewing at_____.

Section 5 Prohibited Uses

The following uses, unless granted a special exception, are prohibited within the Drinking Water Protection Critical Area: abandoned water wells, above ground storage tanks, agriculture chemical- formulation/distribution facilities, airports, animal feed lots/dairies, asphalt plants, auto/boat/tractor/small engine shops, battery recyclers, body shop/paint shops, car washes, cemeteries, chemical plants, class I injection wells, class II injection wells, class III injection wells, class V injection wells, dry cleaner/laundromats, funeral homes, furniture stripping facilities, golf courses, hospitals, irrigation wells, lumber mills, metal plating/metal working facilities, military facilities, non-functional septic systems, nuclear plants, oxidation ponds, paper mills, petroleum bulk plants, pipeline compressor stations, plant nurseries, port facilities, power plants, printing shops, promiscuous dumps, railroad yards- switching/loading and offloading/maintenance, salvage yards, sand/gravel pits, sanitary landfills, sewer lift stations, sewer treatment plants, truck terminals, underground storage tanks, wood preserving plants.

Section 6 Exceptions

Any of the land uses, facilities or activities identified in Section 5 lawfully in existence on (date), may continue to exist on the parcel upon which it is located. Replacement or repair may be granted.

A.) Uses and Activities Requiring Special Permit

The following uses and activities are permitted only upon the issuance of a special permit by the _____ under such conditions as there exists an undue hardship and as they may require:

1. Enlargement or alteration of existing uses that do not conform to the Drinking Water Protection Critical Area;
2. Those activities that involve the handling of hazardous materials in quantities greater than those associated with normal household use, permitted in underlying zoning (except as prohibited in Section 5).

The burden is on the applicant to show undue hardship.

B.) Procedures for issuance of special permit

1. The Special Permit Granting Authority (SPGA) for this ordinance shall be the _____. Such special permit shall be granted if the SPGA determines, in conjunction with _____, that the intent of this bylaw/ordinance, as well as its specific criteria, is met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other (town/city) boards or agencies in its decision.

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2. Upon receipt of the special permit application, the SPGA shall transmit one copy to the _____(s) for their written recommendations. Failure to respond in writing within ____days of receipt by the _____ shall indicate approval or no desire to comment by said agency. The applicant shall furnish the necessary number of copies of the application.
3. The SPGA may grant the required special permit only upon finding that the proposed use meets the prohibited uses standards as specified in Section 5 of this bylaw, all federal, state, and local regulations, and any regulations or guidelines adopted by the SPGA.
4. The applicant shall file ____ copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures; provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
5. Appeals from denial of special permits shall be submitted in writing (letter form) to the _____(any appeal board, executive committee of police jury, or other body) within thirty days of receipt of denial. The _____ shall conduct a review and render a decision within thirty days of receipt of appeal request. Adverse decision of the _____ shall be appealed to the state district court.

Section 7 Saving Clause

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof. A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any special permit previously issued thereunder.

Section 8 Complaints

A.) Any person may submit a verbal or written complaint alleging a violation of this ordinance.

B.) Upon receipt of the complaint, the jurisdiction shall conduct a brief investigation of the substances of the complaint, including a meeting with the landowner involved.

C.) Based upon the determination that there is a violation of this ordinance, the jurisdiction shall conduct an attempt at informal reconciliation with the violator. As part of such informal reconciliation, the jurisdiction shall:
   1. Notify the violator by mail of the violation of this ordinance and desire of the jurisdiction to correct the violation through informal reconciliation. The statement shall also indicate that should the violator refuse to allow the recommended corrective actions within the time set forth by the jurisdiction, action may be taken to correct the violation and the violator will be billed for the cost of taking the corrective action.
   2. Make a good faith effort to meet the violator and resolve/correct the violation.

D.) If after taking the steps above and after a period of ___ days following the mailing of the notice of the violation, the jurisdiction in good faith determines that the violator is unwilling to participate in informal reconciliation and take the corrective actions prescribed, the jurisdiction shall notify the violator by mail of the termination of the informal reconciliation.

E.) The jurisdiction may take corrective actions deemed necessary following _____ days after notifying the violator by mail of the notice of termination of the informal reconciliation, and bill the violator for the reasonable cost of such action.

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Section 9 Enforcement

A.) Civil

This ordinance may be enforced civilly by suit for injunctive relief or by any other appropriate civil remedy.

B.)Criminal

In lieu of a civil enforcement proceeding, a person found in violation of this ordinance shall be imprisoned for a period of time not to exceed 6 months or pay a fine of not more than $1000 or both.

The effective date of this ordinance shall be the _____ day of _____ , 200_.

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