

**ORDINANCE 2001-34**

**AN ORDINANCE ESTABLISHING THE HAZARDOUS MATERIALS LOCAL EMERGENCY PLANNING COMMITTEE; PROVIDING FOR ENFORCEMENT OF THE FEDERAL EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT.**

**THE COUNTY LEGISLATIVE BODY OF THE COUNTY OF TOOELE ORDAINS**

**AS FOLLOWS:**

**SECTION I: SECTIONS ENACTED. Sections 6-19-1 et seq. are hereby enacted to**

**read:**

**6-19-1. Definitions.**

As used in this chapter:

- (1) "LEPC" means the Tooele County Haz-Mat Local Emergency Planning Committee, as authorized by 42 USCS 11001 and Utah Code Annotated Section 63-5-5(5).
- (2) "EPCRA" means the Federal Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 11001 through 11050.

**6-19-2. Committee created.** Tooele County hereby authorizes and establishes as set forth in this chapter a Tooele County Hazardous Materials, Local Emergency Planning Committee. The LEPC, through the Tooele County Sheriff's Office, Division of Hazardous Materials, is hereby authorized to enforce the provisions of this chapter.

**6-19-3. Haz-mat coordinator.** The hazardous materials coordinator shall or designee may, upon resolution of the LEPC, act as the LEPC's agent for the enforcement, management and administration of the LEPC's duties set forth under EPCRA.

**6-19-4. Emergency Planning and Community Right-to-Know Act.**

(1) The requirements of EPCRA shall be the law of Tooele County and shall apply equally to federal, state, county or local governmental agencies, departments, installations, and facilities located in this county, as well as to other facilities that are subject to the provisions of EPCRA.

(2) The provisions of EPCRA are hereby deemed rules and regulations of the Sheriff's Office's Hazardous Materials Division and the fire department governing the operation of the business holding a license or permit pursuant to Tooele County ordinances.

(3) An owner or operator of a covered facility under the provisions of EPCRA who violates such provisions, shall be subject to a civil administrative fine not to exceed \$1,000 per violation. The LEPC shall establish the fine based on the severity of the violation, the duration of the violation, the alleged violator's history of non-compliance, the economic benefit of non-compliance, the LEPC's or the county's investigative costs and the cooperation of the owner or operator in remedying the alleged violation.

**6-19-5. Notice of violation.**

(1) Whenever the LEPC determines that any person or facility is in violation of any applicable emergency plan accepted by or created by the LEPC pursuant to EPCRA, the requirements of EPCRA, or any rules of the LEPC, the LEPC through the chairperson or co-chairperson or designee may cause a written Notice of Violation(s) to be served on the owner of operator (hereinafter the "alleged violator").

(2) The Notice of Violation shall specify the provisions of the emergency plan, the section of the law, or rule alleged to have been violated, the facts alleged to constitute the violation(s) and advise the alleged violator that an administrative hearing shall be held to determine if a civil administrative fine should be imposed for the alleged violation. The LEPC shall specify the time, date, and place where the hearing shall be conducted.

**6-19-6. Hearing examiner.**

The LEPC may, by resolution, appoint a hearing examiner in its place to conduct a hearing on the Notice of Violation. The hearing examiner shall make a written non-binding recommendation to the LEPC on whether the violation occurred, which shall be duly served on the alleged violator. The alleged violator may, within 15 days after the date the recommendations of the hearing examiner were duly served, submit written objections to the LEPC, in the event the hearing examiner makes an adverse recommendation. The LEPC shall review the hearing examiner's recommendations as well as any timely objections submitted by the alleged violator and may adopt or reject the examiner's recommendations. The LEPC, after review of the hearing examiner's recommendations, shall issue a written order which shall be served on the alleged violator in the same manner as the Notice of Violation. The alleged violator shall have 30 days from the date affixed on the order in which to seek judicial review of the order in the appropriate court. The alleged violator shall serve a copy of the complain seeking judicial review with the LEPC and the appropriate court. The LEPC shall promptly file in such court a certified copy of the record upon which such violation was found or fine imposed.

**6-19-7. Service of notice of violations.**

The Notice of Violation, the hearing examiner's recommendations to the LEPC and any order issued by the LEPC shall be served to the alleged violator and/or record owner of the facility upon which the violation is alleged to have occurred either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the facility where the violation is alleged to have occurred.

**6-19-8. Failure to pay.**

If any person fails to pay a civil penalty imposed by the LEPC after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the LEPC, the LEPC may request the Tooele County Attorney to institute a civil action to collect the fine imposed.

**6-19-9. Enforcement.**

(1) Nothing contained in this chapter shall prohibit the county or LEPC or any other person from initiating suit pursuant to 42 USCS 11045 and 11046 of EPCRA at any time during

the pendency of the administrative proceedings authorized herein.

(2) The LEPC shall have the authority to enter into informal settlement agreements with an alleged violator in lieu of seeking a civil administrative fine under this chapter.

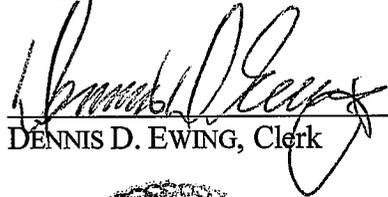
**SECTION II - REPEALER.** Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

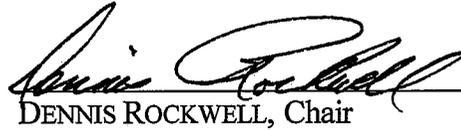
**SECTION III - EFFECTIVE DATE.** It is the opinion of the Tooele County Commission that this ordinance is necessary for the immediate preservation of the peace, health or safety of the County and the inhabitants thereof. It shall, therefore, take effect fifteen (15) days after passage.

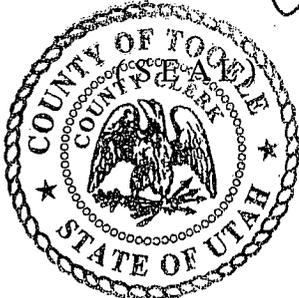
**IN WITNESS WHEREOF,** the legislative body of Tooele County passed, approved and enacted this ordinance this 20<sup>th</sup> day of November 2001.

**ATTEST:**

**TOOELE COUNTY COMMISSION:**

  
DENNIS D. EWING, Clerk

  
DENNIS ROCKWELL, Chair



Commissioner Rockwell voted Aye  
Commissioner Hunsaker voted Aye  
Commissioner White voted Aye

**APPROVED AS TO FORM:**

  
DOUGLAS V. AHLSTROM  
Tooele County Attorney