

Chapter IV. Polk County Well Regulation

4-1. Purpose, Scope and General Provisions.

- (a) **Title.** This Chapter shall be known and may be cited as the “Polk County Well Regulation”, except as referred to herein, where it shall be known as “this Regulation”.
- (b) **Purpose.** The purpose of this Regulation is to provide minimum standards for the protection and safeguard of life, health, property and the general public welfare by regulating and controlling the design, construction, quality of materials, location and maintenance of all non-public water supply wells built within Polk County.
- (c) **Interpretation.** In interpretation and application of this Regulation, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.
- (d) **Conflict.** If any federal or state law or other existing code or regulation allows lesser regulation, this Regulation shall govern; if any federal or state law or other ordinance requires greater regulation, the regulations imposed by that authority shall govern. Regardless of any provision of this Regulation, no land shall be developed or used in violation of state or federal law.
- (e) **Abrogation.** This Regulation is not intended to repeal, abrogate, annul, impair or interfere with any existing public or private easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law.
- (f) **Severability.** Should a court of competent jurisdiction hold any article, sentence, clause, phrase, or word of this Regulation invalid; such decision shall not affect, impair, or invalidate the remaining parts of this Regulation which can be given effect without the invalid provision.
- (g) **Saving Provision.** This Regulation shall not be construed: as abating any action now pending under prior existing subdivision regulations; or as discontinuing, abating, modifying any penalty pursuant thereto; or as affecting the liability or rights of any person, firm or corporation; or as waiving or annulling any rights of the Jurisdiction existing at the time of adoption of this Regulation; except as expressly provided herein.

4-2. Construction.

(a) General Rules.

- (1) Words not defined in this Regulation shall be given the meanings defined in Chapter 49 of the Iowa Administrative Code; and if not defined therein, their ordinary and common meaning.
- (2) Words used in the present tense include the future tense.
- (3) Words in the singular number include the plural number, and words in the plural number include the singular number, unless otherwise indicated.

- (4) Words used in the male gender include the female gender.
- (5) The words “shall”, “will” and “must” are mandatory in nature creating an obligation or duty to comply with the particular provision.
- (6) A reference to an Article shall mean an Article of this Regulation.

(b) Definitions.

- (1) **Board of Health.** The Polk County Board of Supervisors.
- (2) **Board of Health Advisory Committee.** A committee appointed by the Board of Supervisors that has been delegated authority to act in certain cases related to health.
- (3) **Department.** The Polk County Planning and Development Department
- (4) **Health Officer.** An individual or position or his or her agents, designated by the Board of Health to enforce this Regulation.

4-3. Regulations Adopted by Reference.

Any regulation adopted by reference in this Regulation shall include any appendix of that regulation. A portion of the regulation labeled “commentary” or “explanation” or by a similar term shall be considered a statement of legislative intent, finding, purpose or explanation of the referenced provision and shall be treated as legislative history. Where provisions of a regulation adopted by reference and specific provisions of this Regulation conflict, this Regulation shall prevail.

(a) Iowa Administrative Code, Division 567, Chapter 49 – Nonpublic Water Supply Wells. Division 567, Chapter 49 of the Iowa Administrative Code, as in effect on April 15, 2006, a copy of which is on file in the Office of the Health Officer, is hereby adopted by reference as the health regulation of Polk County for the protection of public health by protecting groundwater supplies from contamination by establishing uniform minimum standards and methods for well construction and reconstruction for nonpublic water supply wells. All regulations, provisions, conditions and terms of Division 567, Chapter 49 of the Iowa Administrative Code for Nonpublic Water Supply Wells, are hereby referred to, adopted and made part hereof as if fully set out in this Regulation. In addition, the following supplementary provisions are hereby adopted:

- (1) No service water line shall be installed so as to interfere with or prohibit the installation of a sewage disposal system.
- (2) All pressure systems shall be closed systems except for air introduced in hydropneumatic systems.
- (3) Under no circumstances shall two sources of water supply be connected into a single closed pressure system.

(b) Iowa Administrative Code, Division 567, Chapter 39 – Requirements for Properly Plugging Abandoned Wells. Division 567, Chapter 39 of the Iowa Administrative Code, as in effect on April 15, 2006, a copy of which is on file in the Office of the Health Officer, is hereby adopted by reference as the health regulation of Polk County for the protection of public health

by protecting groundwater supplies from contamination by establishing uniform minimum standards and methods for well abandonment. All regulations, provisions, conditions and terms of Division 567, Chapter 39 of the Iowa Administrative Code for Properly Plugging Abandoned Wells, are hereby referred to, adopted and made part hereof as if fully set out in this code.

4-4. Unsafe Wells.

In the event a nonpublic water well used for human consumption is found through certified laboratory analysis to be “unsafe”, by the Federal Safe Drinking Water Act Standards, and no public water supply system is reasonably accessible, the Department may declare this a public health nuisance and designate the property to be unfit for human habitation.

4-5. Availability of Public Water Supply.

(a) Any dwelling or structure shall be connected to public water if any part of the lot or parcel on which the dwelling or structure is located is within three hundred (300) feet of the nearest adequate line of a public water supply system.

(b) Where a public water supply system becomes reasonably accessible, any dwelling or structure then served by a nonpublic water supply system shall connect to said public water supply within one (1) year.

(c) If a public water supply is available, a nonpublic water supply well which complies with this Regulation may be approved by the Health Officer only for irrigation or agricultural purposes.

4-6. Applicability.

All non-public water supplies and systems constructed, altered or extended within the Polk County after the effective date of this Regulation shall comply with the requirements of this Regulation. All non-public water wells in existence within Polk County before the effective date of these rules shall comply with the requirements of this Regulation if, in reasonable opinion of the Health Officer, a public health hazard exists as a result of any noncompliance.

4-7. Permit Required.

All water wells not required to obtain a State permit shall obtain a County permit. No water well for which a County permit is required shall be installed or reconstructed until an application has been submitted and a permit has been issued by the Department. The installation shall be in accordance with this Regulation. Any construction or reconstruction of a non-public water well pursuant to a valid permit issued prior to the effective date of this amendment may be completed in accordance with the terms and conditions of that permit. Permits issued by the Department shall be coordinated with the withdrawal permits issued by the Iowa Department of Natural Resources.

(a) **Application.** Applications for well permits shall be made in accordance with this Section.

(1) Unless otherwise specified, all applications for permits under this Regulation shall be submitted by the property owner or an authorized agent to the Health

Officer. The Health Officer may require reasonable proof of agency from any person submitting an application as an agent.

- (2) All work authorized by a well permit shall be performed by or under the direct supervision of a well contractor certified under Division 567, Chapter 82, of the Iowa Administrative Code. Any person or firm desiring to obtain a permit authorizing well work shall furnish, upon request of the Health Officer, a copy of a current license from another jurisdiction authorizing the supervising contractor to engage in the type work involved. A permit so obtained, shall not be transferable.
- (3) An application for any permit under this Regulation shall be submitted in such form, number of copies and format as required by the Health Officer. The Health Officer may waive submission of required elements of information when in his opinion such information is otherwise available or is not necessary to review of the application.
- (4) A Floodplain Development Permit Application, if required, shall be submitted with any permit application under this regulation. These reports and plans will be reviewed concurrently with the well permit application.
- (5) All applications for permits shall be submitted, reviewed, and processed in accordance with the requirements of this Regulation. Any permit issued in noncompliance with this Regulation shall be null and void.
- (6) When Construction Plans or Site Plans are required, approval of those plans will be a precondition to issuance of a permit. Except as otherwise allowed, zoning, floodplain, and subdivision regulation requirements must be met prior to permit issuance.
- (7) A copy of required plans or information submitted with the well permit application shall be returned to the applicant after the Health Officer has marked the copy either approved or disapproved and attested to the same. The Health Officer shall retain a similarly marked copy. Such plans, information and application shall be deemed an integral part of any issued permit.
- (8) Unless otherwise provided, any permit for any well on a real property parcel for which a State or County on-site wastewater treatment system permit or entrance permit is also required shall not be issued until the State or County has approved such permit. Also, a permit for a well shall not be issued until any abandoned well on the parcel is sealed in accordance with Division 567, Chapter 39 of the Iowa Administrative Code.
- (9) A fee in an amount as set by the Board of Supervisors shall accompany each application. No permit or certificate shall be issued unless or until all charges and fees have been paid in full. In the event construction or reconstruction of a well has commenced without a permit, a 10% penalty shall be applied to the permit fee.
- (10) No work shall commence until the application is approved and the permit has been issued.

- (11) The permit must be posted in a prominent place on the site at all times it prior to its expiration or issuance of the Certificate of Compliance for the work authorized by the permit.

(b) Administrative Waiver. The Health Officer may waive submission of required information elements of a permit application or supplementary information when in his or her opinion such information is otherwise available or is not necessary to review an application.

(c) Exemptions.

- (1) State or federal government owned facilities are exempt from well permit requirements.
- (2) A federal, state, or local government, or subdivision or agency thereof, or a bona-fide educational organization shall be exempt from payment of permit fees upon approval of the Health Officer, if it is shown that the well will be used for public purpose or program. All other requirements of this Regulation are applicable.
- (3) Emergency repairs when replacement and repair must take place under emergency conditions are temporarily exempt from the permit requirements of this Regulation, provided any required permit application is submitted the next County business day.

(d) Issuance. Permits shall be issued as follows:

- (1) Plot or Site Plans, if required, must be approved prior to issuance of any permits.
- (2) Permits for on site wastewater treatment system, if required, must be approved prior to issuance of a well permit.
- (3) For permit purposes, Final Plat recordation may be deferred on group developments; but a Certificate of Occupancy may not be issued until all well requirements have been met.
- (4) Review of all plans may be concurrent.

(e) Appeals.

- (1) Any property owner or occupant or permit applicant who has been aggrieved by an order or decision of a Health Officer may within ten (10) days of the issuance or mailing of such order or decision appeal to the Board of Health Advisory Committee by giving notice of appeal in writing stating the reasons such order or decision should be rescinded or modified. The appeal will be deemed taken when the notice is physically received by the Department
- (2) The Department shall notify the appellant in writing of the date, time and place of the next regularly scheduled meeting of the Board of Health Advisory Committee, at which the appeal will be heard, unless the Board of Health Advisory Committee is scheduled to meet less than eight days following the Department's receipt of the notice of appeal, in which event the appeal may be heard at the next subsequent meeting.

- (3) The Board of Health Advisory Committee may vote, by a simple majority of the quorum of those members present, to modify or withdraw said order or decision. If not modified or withdrawn, the order or decision shall stand.
- (4) Any aggrieved person may appeal the decision of the Board of Health Advisory Committee to the Board of Health by written notice of appeal received by the Department within ten (10) days after the date of the Board of Health Advisory Committee decision, stating the reasons for requesting such decision be rescinded or modified. The department shall within five (5) working days after receiving such appeal acknowledge the receipt in writing.
- (5) The Board of Health may, but need not, schedule a hearing on the appeal. If a hearing is held the Board of Health may vote, by simple majority of the quorum of members present, to modify or withdraw the original order. If not modified or withdrawn, or if no Board of Health hearing is scheduled to take place on the appeal within thirty (30) days of the Department's receipt thereof, the Order shall stand.

(f) Variances. Variance from these rules may be granted by the Polk County Board of Health Advisory Committee provided sufficient alternative information is provided by the variance applicant to substantiate the need for and propriety of the variance. The procedure for applying for a variance shall be the same as an appeal from an adverse order or decision of the Health Officer.

(g) Permit Expiration

- (1) If, after a period of one (1) year after date of issuance, the work authorized by a County well permit is discontinued or remains incomplete, the permit shall expire.
- (2) No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

(h) Refunds. Fees may be refunded as follows:

- (1) The Health Officer may authorize the full refunding of any permit fee that was erroneously collected or paid or paid with an application that was withdrawn before the permit was issued.
- (2) The Health Official may authorize refunding of the permit fee when no work has been done on an issued permit by the time an initial 180 day period lapses. The permit shall thereupon be cancelled.
- (3) The Health Officer may authorize not more than 80 per cent refund of a permit fee if work has begun at any time and is subsequently discontinued; or if work is not begun within one year.
- (4) No permit fees will be refunded after one year from date of issue.

4-8. Inspections and Investigations

The Health Officer shall have the right, upon presentation of proper credentials, or inspection warrant if necessary, to enter on any property or premises, public or private, within the

jurisdiction of the Board of Health at any reasonable hour for the purposes of inspection, determination of plan compliance, or for the purpose of investigation of any complaint or alleged violation of this Regulation. The Health Officer shall have the power to conduct such investigation as the Officer deems reasonably necessary to carry out duties as prescribed in this Regulation, and the Officer shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Regulation.

4-9. Certificate of Compliance.

A Certificate of Compliance shall be issued by the Health Officer as soon as practical after completion of well construction or development. The well construction and use provided for in the Certificate of Compliance shall be only the use, arrangement, and construction set forth in approved plans and applications. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Regulation.

(a) Inspection. Construction or reconstruction of a nonpublic water well is not complete, and the well shall not be used for any purpose, until a final inspection has been conducted and a Certificate of Compliance has been issued by the Health Officer based on compliance with the requirements of this Regulation. Prior to issuance of a Certificate of Compliance the Health Officer shall:

- (1) By on-site inspection ensure compliance with the permit and this Regulation.
- (2) After the well has been disinfected and the disinfecting agent has dissipated, a water sample from all new wells shall be obtained by the Health Officer and submitted for laboratory analysis and a report which shall confirm the water meets Federal Safe Drinking Water Act Standards for both bacterial and nitrate quality. It shall be the responsibility of the landowner to notify the Department when the water supply is connected and a sample can be collected.
- (3) By review of records ensure compliance with all applicable provisions of related health codes.
- (4) If required, ensure a Certificate of Flood-Proofing or Floor Elevation is presented and found correct.
- (5) Ensure all required on-site and off-site improvements have been completed and that connection to all required utilities has been made.
- (6) No part of any non-public water well system shall be covered or constructed so as to hinder, obstruct or deny a final inspection except to the extent authorized by the Health Officer.
- (7) Preliminary and intermediate inspections may be required by the Health Officer.

(b) Certificate Denial. If a Certificate of Compliance is denied, the Health Officer shall state the reasons by preparing a written list of deficiencies, citing the provisions of this Regulation or other regulations upon which denial is based, and shall state whether a conditional permit, special permit, variance or other procedure may be required.

(c) Temporary Occupancy. The Health Officer may allow Temporary Occupancy of a dwelling or structure or temporary use of a well prior to the completion of all construction, alteration, or changes authorized by a well permit if such occupancy will not endanger health or safety.

- (1) Temporary Occupancy may be for a time period as the Health Officer deems appropriate to complete the work, but not to exceed one hundred eighty (180) days.
- (2) If the work is not completed within the period of the Temporary Occupancy; the Health Officer shall notify the owner immediately. The owner shall cease use of the well and shall not resume such use until a Certificate of Compliance has been issued. Failure to cease use shall subject the owner to civil penalties, and other enforcement actions.

4-10. Administration.

(a) Violation. Any of the following acts, either by the alleged violator or occurring on real property owned or controlled by the alleged violator with such person's knowledge or consent, shall be a violation of this Regulation and shall be subject to the enforcement remedies and penalties provided by this Regulation, Chapter 2 of the Polk County Code of Ordinances and state law:

- (1) Engaging in any development, use, construction, remodeling, or other activity of any nature of a well or improvements thereof subject to the jurisdiction of this Regulation without a required permit, certificate, or other form of authorization as set forth in this Regulation; or
- (2) Conducting an activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
- (3) Any violation, by act or omission, of any term, variance or waiver, condition, or qualification placed by the Board of Health or its agents upon any required permit, certificate, or other form of authorization for the use, development, or other activity of a well or improvements thereof.
- (4) Erecting, constructing, reconstructing, altering, repairing, converting, maintaining or using any building, structure, or land supplied water by a well built, or improved in contravention of this Regulation, any other regulation incorporated by reference herein or any order of the Health Officer issued pursuant hereto.

(b) Questions. Unless otherwise provided, all questions arising in connection with the enforcement of this Regulation shall be presented first to the Health Officer. All appeals from decisions of the Health Officer in connection with this Regulation shall be as prescribed herein.

(c) Enforcement. When the Health Officer or an authorized employee of the Department finds a violation of this Regulation:

- (1) He or she shall notify the owner, owner's agent or person in possession or control of the property on which the alleged violation occurred or is occurring.

Such notice shall be in writing unless the Health Officer or employee determines that an emergency situation exists, in which event oral notification shall be sufficient.

- (2) The owner, agent or other notified person shall immediately remedy the violation.
- (3) If the owner or other person fails to comply, the Health Officer shall seek relief by following procedures in Chapter 2 of the Polk County Code of Ordinances or Chapter II of the Polk County Local Board of Health Rules and Regulations.

(d) Remedies. In addition to any other remedy authorized by law, ordinance or regulation, any or all of the following may be used to enforce the provisions of this Regulation:

- (1) Any violation of this Regulation or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by appropriate proceeding pursuant to state law.
- (2) The Health Officer may withhold or deny any permit, certificate, or other form of authorization on any land in which there is an uncorrected violation of a provision of this Regulation.
- (3) The Health Officer may condition the authorization of any permit or certificate upon the correction of a deficiency.
- (4) The Health Officer may revoke approval of a permit or certificate by notifying the landowner or permit applicant in writing of the reason for the revocation. Reasons for revocation may include, but are not limited to, any of the following:
 - a. Any substantial departure from the approved application, plans, or specifications;
 - b. Refusal or failure to comply with the requirements of state or local laws;
 - c. false statements or misrepresentations made in securing permit approval.

(e) Penalties. Any violation of this Regulation is a County misdemeanor and a health nuisance as provided by Chapter 2 of the Polk County Code of Ordinances. The owner of any land or part thereof; and any contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Regulation shall be responsible for the violation and subject to the remedies herein provided.

(f) Previous Enforcement. Nothing in this Regulation shall prohibit the continuation of enforcement actions commenced prior to the effective date hereof.

(g) Remedies Cumulative. All remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or part thereof, such remedy shall remain available for other violations or other parts of the same violations.

(h) Records. The Health Officer shall retain on file a signed copy of all Permits, all approved and amended Plans, all Flood Elevation Certificates and Flood Proofing Certificates, Certificates of Compliance and documents required by law.

4-11 Debris.

No cut trees, timber, debris, contaminated soil, waste concrete, junk, rubbish, sewage, food waste, or garbage shall be buried, or left deposited on any private or public lot containing a nonpublic water supply well. During construction waste materials shall be stored in a manner which prevents blowing on, or contamination of, adjoining lots and public rights-of-way.

4-12 Utilities.

All drainage and utility easements will be kept free and clear of any buildings or other structures that would interfere with their proper maintenance.

(Revised 4/06)