

PRIVATE WELL REGULATIONS

BOARD OF HEALTH

TOWN OF ASHFIELD, MA

Revised By vote of
The Ashfield BOH
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Table of Contents

	Page
I. Purpose.....	2
II. Authority	2
III. Definitions.....	2
IV. Well Construction Application and Permit.	3
V. Private Drinking Water Well Location	4
VI. Water Quality and Quantity Requirements For Private Drinking Water Wells	5
VII. Well Construction Requirements.....	6
VIII. Decommissioning of Wells.....	7
IX. Emergency Provisions	7
X. Enforcement.....	8
XI. Violations and Penalties.....	8
XII. Non-Criminal Method of Disposition.....	8
XIII. Civil Remedies	8
XIV. Hearing.....	8
XV. Appeal.....	9
XVI. Variance	9
XVII. Severability	9
XVIII Effective Date	10
XIX Disclaimer.....	10

1. PURPOSE

It is the purpose of these regulations to protect the public health, safety, and welfare, and provide for dwellings with no access to public water supplies the supply of safe drinking water from private wells; and to ensure that all wells, whether for human consumption, agriculture, or geothermal purposes, are constructed in a manner which will protect the quality of the groundwater, and to provide for the protection of the Town of Ashfield's groundwater resources.

II. AUTHORITY

These regulations are adopted by the Town of Ashfield's Board of Health (the "Board"), as authorized by Massachusetts General Laws, Chapter 111 Section 31. These regulations supersede all previous regulations adopted by the Board pursuant to the construction or decommissioning of private wells.

III. DEFINITIONS

Agent: Any person designated and authorized by the Board to enforce these regulations. The Agent shall have all the authority of the Board and shall be directly responsible to the Board, and under its direction and control.

Agricultural Well: Any hole or shaft constructed into the ground, either dug, driven, or drilled, and with a depth greater than its largest surface diameter, which is developed primarily to supply water intended for farm or agricultural use, and not for human consumption.

Applicant: Any person who applies to the Board for a permit under these regulations.

Board of Health or Board: The Board of Health of the Town of Ashfield Massachusetts or its authorized Agent.

Certified Laboratory: Any laboratory certified by the Massachusetts Department of Environmental Protection to perform drinking water analysis.

DEP: The Massachusetts Department of Environmental Protection.

Private Drinking Water Well: Any hole or shaft constructed into the ground, either dug, driven, or drilled, and with a depth greater than its largest surface diameter, which is developed primarily to supply water intended for human consumption, and not subject to regulation by 310 CMR 22.00 (Massachusetts Department of Environmental Protection Drinking Water Regulations).

Dwelling: Any building or shelter used or intended for human habitation.

Ground Source Heat Pump (GSHP) Well: Commonly called "geothermal well". Any excavation by any method for the purpose of transferring heat to or from the earth for heating and cooling purposes in which the ambient ground temperature is 90 degrees Fahrenheit or less.

Permit: A written permit issued by the Board or its Agent giving permission to construct a well or decommission a well.

Person: An individual, corporation, company, association, trust, or partnership.

Potable Water: Water that is fit to drink; drinkable.

Public Roadway: Any street, road or other place where the public has access and which is at least 10 feet in width whether or not accepted by the Town of Ashfield.

Registered Well Driller: An individual currently registered with the Massachusetts DEP Well Driller Certification Program to engage in the business and supervise the drilling, altering, or decommissioning of wells in Massachusetts.

Utility Right Of Way: Any corridor of land over which facilities such as railroads, power lines, pipelines, conduits, channels or communication lines are located.

Well Completion Report: A report specified by the Massachusetts DEP's Well Driller Certification Program; to be completed by a registered well driller within 30 days completion of the well drilling or decommissioning of a well.

IV. WELL CONSTRUCTION APPLICATION AND PERMIT

A) No person and no registered well driller shall construct, deepen, or modify any well without a permit from the Board. A property owner or his duly appointed representative shall make application to the Board for the digging, driving, or drilling, deepening, modification or decommissioning of any well on a form as provided by the Board for such purpose. A private drinking water well may only be constructed by drilling and may only be constructed by a registered well driller.

B) Each permit application to construct a well shall include the following:

- 1) the property owner's name and address
- 2) the well driller's name and current well driller registration number
- 3) a plan showing the relative position and distances of all sources of contamination that exist or are proposed to exist within 200 feet of the proposed well site, whether or not this distance is on the applicant's property, including but not limited to the following:
 - a) existing and proposed structures
 - b) subsurface sewage disposal systems
 - c) underground fuel storage tanks
 - d) public ways
 - e) utility rights-of-way
 - f) any other potential sources of pollution
 - g) known locations of waste sites past and present

- 4) In the case of Ground Source Heat Pump Wells, certification or registration, as applicable, from Massachusetts DEP.
- 5) A permit fee established by the Board.

C) A permit shall expire in two (2) years from the date of issuance unless otherwise revoked by the Board or its Agent.

V. PRIVATE DRINKING WATER WELL LOCATION

A) No private drinking water well may be drilled except in the location approved by the Board or its Agent.

B) Unless the Board specifically authorizes otherwise, a private drinking water well shall be located up gradient of all potential sources of contamination and shall be as far removed from potential sources of contamination as possible, given the layout of the premises. The following minimum lateral distances shall apply to each source of possible contamination:

Driveways	15 feet
Property line	25 feet
Public roadway	50 feet
Surface or subsurface drains	25 feet
Underground fuel storage tank	150 feet
Septic leach field, in use or abandoned, including reserve area; privy, cesspool, or seepage pit.	150 feet
Septic tank	50 feet
Sewer line with watertight joints*	25 feet
Stables, barnyards, feedlots, manure piles, or manure storage tanks	150 feet
Utility right of way	100 feet
Gas line or overhead electric distribution line	25 feet
Streams, ponds, lakes, wetlands	**

* Whenever water supply lines from a private drinking water well must cross sewer lines, both pipes shall be constructed of class 150 pressure pipe and shall be pressure tested to assure water tightness.

** The minimum lateral distance for streams, ponds, lakes, or other wetlands shall comply with the requirements of the Massachusetts DEP Wetlands Protection Act Regulations (310 CMR 10.00)

C) Where deemed necessary or appropriate by the Board, the above distances may be increased, or reasonable means of protection may be required, or both. The Board may impose minimum lateral distance requirements from other potential sources of contamination not listed above. All such special requirements shall be listed on the Well Construction Permit.

D) Each private drinking water well shall be located so as to be accessible for repair, maintenance, testing, and inspection.

E) No private drinking water well, or its associated distribution system, shall be connected to either the distribution system of a public water supply system, as defined by Massachusetts Drinking Water Regulations 310 CMR 22.00, or any type of waste distribution system.

F) The well head of any well located within 100 feet of a Utility Right of Way as defined in these regulations shall be permanently marked with the words "Private Drinking Water Supply"

VI. WATER QUALITY AND QUANTITY REQUIREMENTS FOR PRIVATE DRINKING WATER WELLS

No person shall use for human consumption at any time water from a well that has been drilled but not tested for potability, and further, until results of water quality testing and the Well Completion Report has been received, reviewed and approved by the Board.

A) Water Quality Testing Requirements

1. A water sample shall be collected either after purging three well volumes or following the stabilization of the pH, temperature and specific conductance in the pumped well. The water sample to be tested shall be collected at the pump discharge or from a disinfected tap in the pump discharge line. In no event shall a water treatment device be installed prior to sampling.

2. The water quality test shall be conducted by a laboratory certified by Massachusetts DEP for water analysis, and shall include analysis for the following:

Coliform bacteria	Fecal bacteria
Chloride (Cl)	Sodium (Na)
Nitrate Nitrogen (N)	Nitrite Nitrogen
Manganese (Mn)	Total dissolved solids
Total hardness	Iron (Fe)
	pH

3. The applicant shall submit to the Board the Well Completion Report and a copy of the certified laboratory's test results showing the location/address of the well water tested, the name of the well owner, the name of the individual who performed the sampling, and the location in the system of where the sample was obtained.

4. The Board reserves the right to require testing for additional parameters, or retesting of the above parameters, when, in the opinion of the Board, it is necessary due to local conditions or for the protection of the public health, safety, and welfare. All costs and laboratory arrangements for the water testing are the responsibility of the applicant.

B) Water Quantity Requirements

1. Before a private drinking water well may be connected to an occupied dwelling, the applicant must show that the capacity of the well is sufficient to provide the required minimum yield of water to service the dwelling.
2. The required minimum yield will vary depending on the depth of the well. The required minimum yield shall conform to the following table:

<u>Depths of Water in Well</u>	<u>Gallons/Minute/3-bedroom home</u>
to 150 feet	4
150 to 200 feet	3
200 to 250 feet	2
250 to 300 feet	1
300 and deeper	½

The Board reserves the right to require higher yields/depths when, in the opinion of the Board, additional yield will be needed for larger dwellings.

VII. WELL CONSTRUCTION REQUIREMENTS

- A) Pursuant to 313 CMR 3.00 (Registration of Well Drillers and Filing of Well Completion Reports regulations), no person shall construct a well unless registered with the Massachusetts DEP Well Driller Certification Program.
- B) Any work involving the connection of the private drinking water well to the distribution system of the residence must conform to the state and/or local plumbing codes. All electrical connections between the well and the pump controls and all piping between the well and the storage and/or pressure tank in the house must be made by a qualified pump installer or registered well driller, including the installation of the pump and appurtenance in the well or house.
- C) Any work involving the construction of a Ground Source Heat Pump Well shall conform to the most recently updated Massachusetts DEP “Guidelines For Groundsource Heat Pump Wells” document, which constitutes part of these regulations and are incorporated herein by reference.
- D) A physical connection is not permitted between a water supply which satisfies the requirements of these regulations and another water supply that does not meet the requirements of these regulations except with written prior approval of the Board.
- E) All wells shall be constructed and disinfected in compliance with applicable sections of the Massachusetts DEP Drinking Water Program “Private Well Guidelines” document (“General Well Design and Construction” and “Disinfection”), as amended from time to time. Said sections shall constitute part of these regulations and are incorporated herein by reference.

F) All test holes and borings shall be plugged before the registered well driller completes work at the site.

G) A well permitted as an agricultural well shall be permanently marked “Not for Human Consumption”. No well permitted as an agricultural well may be connected to the distribution system of a dwelling except after written permission of the Board.

H) Any well, except a dug well, shall be equipped with a sanitary seal or watertight well cap designed to prevent surface water and foreign matter from entering the well.

VIII. DECOMMISSIONING OF WELLS

A) The owner of a private well shall arrange for the decommissioning of a well if ordered by the Board, when, in the Board’s opinion, the well presents a potential hazard to public health or safety, or the well owner notifies the Board that the use of the well is to be permanently discontinued.

B) No person shall decommission or plug any well until application for same is made to the Board of Health and a Permit to Decommission a Well has been issued by the Board.

C) No person shall decommission or plug any well unless he is registered with the Massachusetts Well Driller Registration Program, and has been permitted in writing by the Board to decommission or plug the well.

D) Following decommissioning of the well, the well driller shall, within 30 days, submit a written report to the Board stating the methods and materials employed in the decommissioning.

E) A well shall be decommissioned in compliance with the most recently updated Department of Environmental Protection Drinking Water Program’s “Private Well Guidelines” document.

IX. EMERGENCY PROVISION

A) Any person requesting permission to do an emergency project shall specify why the project is necessary for the protection of public health and safety. If the project is certified as an emergency project by the Board, or its Agent, that certification shall include a description of the work which is to be allowed and shall not include work beyond that necessary to abate the emergency. A site inspection shall be made prior to certification. An emergency certification shall only be issued for the protection of public health and safety. The work performed under an emergency certification shall be performed within 30 days or said certification shall expire, unless extended in writing by the Board.

X. ENFORCEMENT

A) The Board shall investigate violations of these regulations and may take such actions as the Board deems necessary for the protection of the public health and the enforcement of these regulations.

B) If an investigation reveals a violation of these regulations the Board shall order the private well owner to comply with the violated provisions(s). These orders shall be in writing and be served in accordance with the provisions of Title I of the State Environmental Code (310 CMR 11.00).

XI. VIOLATIONS AND PENALTIES

Whoever, himself or by his servant or Agent, or as the servant or Agent of any other person or any firm or corporation, violates these regulations, for which no penalty by way of fine or imprisonment, or both, is provided by law, shall be punished by a fine of not more than one thousand dollars. Each day's failure to comply shall constitute a separate violation.

XII. NON-CRIMINAL METHOD OF DISPOSITION

As an alternative to initiating criminal proceedings, violations of this regulation may be enforced in the manner provided in MGL chap. 40, sect. 21D, by the Board or its Agents. Any fines imposed under the provisions of this regulation shall be paid to the Town of Ashfield for such use as the town may direct.

XIII. CIVIL REMEDIES

In conjunction with the remedies set forth above or separately, the Board may seek equitable enforcement of these regulations by filing a civil action in a court of competent jurisdiction.

XIV. HEARING

A) An individual to whom any order has been served may request a hearing before the Board by filing with the Board within 7 days after the day the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board shall set a time and place for such hearing and shall inform the well owner thereof in writing.

B) Every notice, order, or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the office of the Town Clerk, and in the office of the Board.

C) If a written petition for a hearing is not filed with the Board within 7 days after the day an order has been served, or if, after a hearing, the order has been sustained in any part, each day the violation exists thereafter shall constitute an additional and separate offense subject to additional penalties and/or enforcement.

XV. APPEAL

Any person aggrieved by the final decision of the Board may seek relief therefrom within sixty (60) days in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

XVI. VARIANCE

A) The Board may vary the application of any provision of these regulations with respect to any particular case when, in the Board's opinion, both of the following conditions are fulfilled:

1. The literal enforcement thereof would do manifest injustice and create a demonstrated substantial hardship and that the relief desired would be substantially consistent with the intent and purpose of these regulations.

2. The applicant has proven that the same degree of environmental protection and protection of the public health, safety and welfare can be achieved without strict application of the particular provision. The alternative means of protection shall be detailed and documented by the application to the satisfaction of the Board.

B) Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefore. A hearing shall be scheduled within 60 days of receipt of the request for variance. The applicant shall notify, in writing by certified mail, and at least 7 days prior to the hearing, all abutters to the property for which the variance is sought, of the date, time, and place of the hearing. The procedure for hearings shall conform to the requirements of Title 1 of the State Environmental Code (310 CMR 11.00) for orders and hearings.

C) Any variance granted by the Board shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for denial. A copy of each variance shall be conspicuously posted for thirty (30) days following its issuance and shall be available to the public at all reasonable hours. No work shall be done under any variance until the appeal period from its issuance has elapsed unless the Board certifies in writing that an emergency exists.

D) Any variance may be subject to such qualification, revocation, suspension, condition, or expiration as is provided in these regulations or as the Board expresses in its grant of the variance.

E) A variance may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard, in conformity with the requirements of Title I of the State Environmental Code (310 CMR 11.00) for orders and hearings.

XVII. SEVERABILITY

If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into

conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

XVIII. EFFECTIVE DATE

These regulations were adopted by vote of the Town Ashfield Board of Health, at their regularly scheduled meeting held on June 15, 2010 and are to be in full force and effect on and after July 1, 2010. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, with notice as provided by law, on its own motion or by petition.

XIX. DISCLAIMER

The issuance of a well permit shall not be construed as a guarantee by the Board or its Agents that the water system will function satisfactorily nor that the water supply will be of sufficient quality or quantity for its intended use.