

CHAPTER 5.60
NONPUBLIC WATER SUPPLY WELLS

CHAPTER 5.60.01
GENERAL PROVISIONS

- 5.60.01.005 ADOPTION BY REFERENCE: The following Chapters of Department of Natural Resources 567, Iowa Administrative Code, are hereby adopted by reference subject to additions and amendments hereinafter set forth in this Chapter after the effective date of the ordinance codified in this Chapter:
- .01 Chapter 38, Private Water Well Construction Permits
 - .02 Chapter 49, Nonpublic Water Supply Wells
 - .03 Chapter 82, Well Contractor's Certification.
- 5.60.01.010 TITLE: This Ordinance shall be known and may be cited and referred to as "Pottawattamie County, Iowa, Nonpublic Water Supply Wells Ordinance".
- 5.60.01.020 PURPOSES AND OBJECTIVES: This Nonpublic Water Supply Wells Ordinance is adopted to preserve, protect and promote the public health, safety and general welfare of the citizens of Pottawattamie County, Iowa, all in accordance with and as permitted by the provisions of Chapter 137, Code of Iowa, as amended and the Department of Natural Resources 567, Iowa Administrative Code, Chapter 38, Private Water Well Construction Permits; Chapter 49, Nonpublic Water Supply Wells; and Chapter 82, Well Contractor's Certification. More specifically, this Ordinance is adopted in order to establish minimum standards and procedures for governing the design, location, construction, installation, alteration, operation, use and maintenance of all nonpublic water wells, to insure that the wells therein shall not:
- .01 Allow the pollution or contamination of any ground water supply.
 - .02 Be a health hazard by being accessible to children or animals.
 - .03 Violate any other laws or regulations governing water pollution.
- 5.60.01.030 JURISDICTION: The provisions of this Ordinance shall apply to all of the territory of Pottawattamie County, Iowa, including the territory within the corporate limits of all cities.
- 5.60.01.040 INTERPRETATION OF STANDARDS: In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions, covenants or other provisions of law, including but not limited to Chapter 567-38, 567-49 and 567-82, Iowa Administrative Code, the most restrictive or that imposing the higher standard, shall govern.

CHAPTER 5.60.02
DEFINITIONS

- 5.60.02.010 CONSTRUCTION OF TERMS: For the purpose of this Ordinance, certain terms and words are hereby defined. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.
- .01 GENDER: The masculine shall include the feminine and the neuter.
 - .02 HEADINGS: In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this Ordinance and the context, thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.
 - .03 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
 - .04 PERSON: The word “person” includes a firm, associate, organization, partnership, trust, company or corporation as well as an individual.
 - .05 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissible.
 - .06 TENSE: Words used in the present tense include the future tense.
 - .07 USED OR OCCUPIED: The word “used” or “occupied” includes the words intended, designed, or arranged to be used or occupied.
- 5.60.02.020 BOARD: The Board of Health of Pottawattamie County, Iowa, as authorized by Chapter 137, Code of Iowa, as amended.
- 5.60.02.030 COUNTY: Pottawattamie County, Iowa.
- 5.60.02.040 COUNTY INFRACTION: A civil offense punishable by a civil penalty and issued by means of a citation.
- 5.60.02.050 DEPARTMENT: The Iowa Department of Natural Resources.
- 5.60.02.060 PERMIT: A formal written order issued by the Board of Health or designee, to construct, alter, modify, or repair a nonpublic well.
- 5.60.02.070 PLANNING DIRECTOR: The Director of Planning and Development or designee of Pottawattamie County, Iowa.
- 5.60.02.080 REPEAT OFFENSE: A recurring violation of the same section of the Pottawattamie County, Iowa, Nonpublic Water Wells Ordinance.
- 5.60.02.090 VARIANCE: A variance is a relaxation of the terms of the Nonpublic Water Wells Ordinance where such variance shall not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

5.60.02.100 SITE EVALUATION: A site evaluation shall be conducted by the well driller prior to apply for the Well Permit. The County Planning Director or their official designee shall conduct a site evaluation after the Well Permit is filed and prior to the issuance of a Well Permit. In the event said private water well is to be drilled for a new dwelling or building, the building contractor and commercial septic installer or property owner, if the property owner is installing their own system, shall likewise conduct a site evaluation. Consideration shall be given, but not be limited, to the impact of the following: topography; drainage ways; terraces; floodplain; location of property lines; location of easements; buried utilities; existing and proposed tile lines; existing, proposed and abandoned water wells. Each contractor involved in the work to be performed on the site shall acknowledge that they conducted a site evaluation prior to the applications being submitted, by signing said application form, along with the property owner.

CHAPTER 5.60.05 PERMITS

5.60.05.010 WELL PERMIT REQUIRED: It shall be unlawful for any person to drill a new private water well until a Well Permit shall have been issued by the Planning Director, except as provided in Section 5.60.05.090. No Well Permit shall have been issued by the Planning Director unless the private water well complies with all provisions of this Ordinance, except when so ordered by the Board of Health in the case of an application for a variance granted in accordance with this Ordinance.

.01 The Well Permit issued by the Planning Director shall be in addition to the Zoning Permit or any other permit required by the County and shall be obtained prior to construction, alteration, and extension of the structure to be served.

.02 A Well Permit shall be obtained for each separate new private water well.

.03 A Well Permit is required for all replacement wells. A Well Permit is not required for the repair, maintenance, rehabilitation or reconstruction of an existing well. Changes in physical dimensions included in these exemptions include, but are not limited to deepening the well and changing the diameter or length of the casing or the screen.

5.60.05.020 APPLICATIONS FOR WELL PERMITS: All applications for Well Permits shall be filed with the Planning Director on approved forms, together with the filing fee specified in Chapter 1.50, and shall be accompanied by such documentation as may be necessary for the Planning Director to make an appropriate determination on the application.

.01 The application shall include the name and business address of the Iowa State Registered well driller that is to do the work; the name of the property owner; the legal description of the property where the work is to be done; and such other pertinent information as may be required.

.02 The required documentation shall include plans and specifications, drawn to scale, accurately showing the shape and dimensions of the parcel to be drilled upon; the location, status, and size of any existing wells (including abandoned

wells, inactive wells, agricultural drainage wells, irrigation wells, domestic wells and livestock wells) on the applicant's property contiguous to the well site described in the application and shall describe the location of each well site; the location and size of all new proposed wells and other pertinent information as may be required.

5.60.05.030 ACTION BY PLANNING DIRECTOR: The Planning Director shall take action as soon as reasonably possible, but in no case longer than seven (7) days on all Well Permit applications which are filed in accordance with the provisions of this Ordinance. The Planning Director shall give due consideration to said applications, negotiate with the applicants on changes deemed advisable and the kind and extent of construction, alteration, or repair to be done, and pass on the applications as originally submitted or modified.

.01 In the event an application is disapproved by the Planning Director, such disapproval shall be expressed in writing and shall point out wherein said proposed application is objectionable. Upon disapproval, the applicant may submit a revised application, together with the revised plans and specifications, without payment of any additional fee.

.02 In the event an application is found to be acceptable and in accordance with the provisions of this Ordinance, the Planning Director shall accept same and issue a Well Permit.

.03 In the event that during the course of work, it is found necessary to make any changes from the plans and specifications on which a Well Permit was issued, such change shall first be approved by the Planning Director.

.04 In no case shall the issuance of a Well Permit be construed as waiving any of the provisions of this ordinance.

5.60.05.040 DISPLAY OF PERMIT: Well Permits shall be displayed so as to be plainly visible from the street or public roadway during the construction period.

5.60.05.050 EXPIRATION OF PERMITS: If the work described in any Well Permit has not been completed within twelve (12) months of the date of issuance thereof, said permit shall expire and shall be cancelled by the Planning Director; a written notice thereof shall be given to the applicant, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new Well Permit has been obtained.

5.60.05.060 NOTIFICATION: The Planning Director shall be notified orally by telephone, or in writing not less than eight (8) working hours between 8:00 A.M. and 4:30 P.M. before the work is to be inspected or tested.

5.60.05.070 INSPECTIONS: The Planning Director is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance. It shall be the duty of the owner or occupant of the property to give the Planning Director free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this

Ordinance. No part of any well shall be used, covered or so constructed as to deny the mandatory final inspection by the Planning Director.

5.60.05.075 SUBMISSION OF RECORDS: Within thirty (30) days of completion of any nonpublic water supply well or other water well used to access groundwater, the well driller shall either submit drilling records to the Planning Director or shall post the drilling records on the Iowa Department of Natural Resources "Private Well Tracking System" and electronically notify the Planning Director of said posting.

5.60.05.080 CERTIFICATE OF COMPLIANCE: Upon completion of the work described in a Well Permit, upon receipt of the drilling records required by Section 5.60.05.075, and after the final inspection and approval thereof, the Planning Director shall issue a Certificate of Compliance, which shall certify that the construction is in substantial compliance with the provisions of this Ordinance, and may show any minor deviations from the provisions thereof.

5.60.05.090 EMERGENCY INSTALLATION: In the event of an emergency situation, construction of a private water well may be initiated without a Well Permit; provided such work is reported to the Planning Director and a Well Permit is obtained within forty-eight (48) hours of the commencement of construction. All such emergency work shall be done in conformity with these regulations.

CHAPTER 5.60.10 FEES

5.60.10.010 FILING FEE REQUIRED: A filing fee in accordance with the established fee schedule shall be charged for each application to assist in deferring the cost of administrative review and inspections. The applicant shall be held responsible for submitting the required filing fee upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.

5.60.10.020 FEE SCHEDULE: The fee schedule as set forth in Chapter 1.50 is hereby established for matters pertaining to this Ordinance.

5.60.10.030 PAYMENT OF FEES: All fees mentioned above shall be paid to the County Treasurer for the rural services fund of Pottawattamie County, Iowa.

5.60.10.040 FEE REFUND: Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

CHAPTER 5.60.20 ADMINISTRATIVE, ENFORCEMENT AND LEGAL STATUS PROVISIONS

5.60.20.10 ENFORCEMENT: It shall be the duty of the Planning Director to administer and enforce this Ordinance in accordance with its provisions. All departments, officials, and public employees of the County vested shall comply with the provisions of this Ordinance and shall issue no permit, license or certificate for any use, building or purpose in conflict with the provisions of this Ordinance. In the enforcement of this Ordinance, the Planning Director shall exercise the following powers and duties:

.01 All questions of interpretation and enforcement of this Ordinance shall be presented to the Planning Director.

- .02 Whenever a violation occurs, or is alleged to have occurred, any person may file with the Planning Director written complaint which states fully the causes and basis thereof. The Planning Director shall record properly such complaint, immediately investigate and take appropriate action thereon.
- .03 Upon discovery of any violation, the Planning Director shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Planning Director shall order discontinuance of any illegal activity; removal of any illegal activity; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- .04 The Planning Director shall prepare reports of those violations, which continue unabated after exhaustion of reasonable administrative remedies towards their abatements and shall submit said reports to the County Attorney for such legal action as the facts of each report may require.
- .05 In the event the County Attorney after analysis of the report, institutes legal proceedings, the Planning Director will cooperate fully with the County Attorney in perfecting of such proceedings.
- .06 In all cases where the county commences court action, the Planning Director shall cooperate with the County Attorney by performing such additional investigative work as the County Attorney may reasonably require.

5.60.20.020 VIOLATIONS AND PENALTIES: The penalty for violating the provisions of the Chapter shall be as set forth in Chapter 1.75.