

BOARD OF HEALTH, SHUTESBURY, MASSACHUSETTS REGULATIONS PROVIDING FOR PRIVATE WELLS

Add the following section IV to the Shutesbury Board of Health Regulations (Sections I and II, dealing with site inspection and percolation test, were adopted on November 5, 1987; Section III, dealing with inspection of sewage disposal systems, was adopted on July 7, 1988):

IV. PRIVATE WELL REGULATIONS SECTION 1.1 PURPOSE

There being no public water supply in the Town of Shutesbury, the purpose of these regulations is to insure housing units of safe drinking water from private wells, and to provide for the protection of the town's groundwater resources. Private well contamination in the past has led to exposure to contaminated drinking waters.

SECTION 1.2 AUTHORITY

Mass. General Laws, Chapter 111, Sections 31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 11.02 Boards of Health may make reasonable health regulations. MGL Chapter 40, Section 54, requires that no building permit be issued to a property without a potable water supply. Water supply officials are responsible for regulating and monitoring public water. The regulation of private wells is the responsibility of local boards of health.

SECTION 1.3 DEFINITIONS

- a. Board of Health – so used in these regulations shall refer to the Board of Health of the Town of Shutesbury or its authorized Agent.
- b. Agent – An agent of the Board of Health is any person authorized in writing by the Board of Health to act under these regulations.
- c. Private Well – any non-public well serving less than 15 houses and serving fewer than 25 people, as defined in 310 CMR 22.02.
- d. Well – so used in these regulations shall include any dug, driven, or drilled well, or any other source of water, to be used for the purpose of supplying potable drinking water in the town.
- e. Well Driller – any person, association, partnership, company, corporation, or trust that constructs a well and is licensed by the Mass. Water Resources Commission.
- f. Water Supply Certificate – a certificate issued by the Board of Health which authorizes the use of a private well as a supply of drinking water.

g. Abandoned Well – a private well that has not been used for drinking water for a period of one year or more, and which the owner declares in writing to be permanently discontinued for supplying water.

SECTION 1.4 PERMISSION TO CONSTRUCT OR DESTROY A PRIVATE WELL

A private well construction or destruction permit shall be obtained from the Board of Health prior to construction or destruction of any private well.

SECTION 1.5 REGISTRATION OF WELL DIGGERS AND DRILLERS

No person shall construct a private well within the boundaries of the Town unless registered with the Water Resources Commission as required by state regulation 313 CMR 3.00 Water Well Registration as of 8/27/81. A copy of the well driller's license must accompany application or permit.

SECTION 1.6 LOCATION OF WELLS

a. Well location criteria shall include the following minimum later distances from the well site to the following:*

Sub-surface sewage disposal field (in use, abandoned, or reserve area)	100 feet*
Cesspool – seepage pit	100 feet*
Septic tank	50 feet*
Sewer Line with watertight joints	25 feet
Defined Property Line	25 feet
Public Way (from defined property line)	25 feet
Sub-surface fuel storage tank	150 feet
Driveways	15 feet
Swamps, marshes, wetlands, floodplains, brooks, streams, ponds, lake, or seasonal streams	25 feet ⁺
Dwelling or other structures	25 feet
Surface or subsurface drains, or outlet of such a drain	25 feet
Utility Right of Way	100 feet

* See Section 1.7(f) for well construction and location modifications.

* If the percolation rate for a subsurface sewage disposal system is 2 minutes per inch or less, a one hundred fifty feet (150') separating distance from the system (disposal field or cesspool) and a seventy-five feet (75') distance from the septic tank must be met.

⁺ This distance shall be measured laterally from the high water mark or wetland determination bound. Any work proposed in a wetland buffer zone requires permission of the local Conservation Commission prior to issuance of a permit to construct a well.

b. Where deemed necessary or appropriate by the Board of Health, 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 requirements shall be added by the Board as conditions of the well construction permit.

c. The generalities of the aforesaid notwithstanding, no one shall position, locate, drill, or dig a well or cause the same to be done in such a manner as to limit the use of enjoyment of any neighboring property in any manner whatsoever.

d. Topographically, the well should be located above the elevation of any proposed septic system or known source of contamination within reason.

SECTION 1.7 APPLICATION PROCEDURE

a. An application for a well construction or destruction permit shall be submitted by the property owner or owner's agent to the Board of Health on a form provided by the Board of Health.

b. The Town Tax Map and Plot or Parcel number, the location of the existing or proposed private well to be destroyed or constructed, and a general summary of any possible sources of contamination shall be submitted to the Board of Health with the permit application.

c. The application for a well destruction permit shall be accompanied by a plot plan with dimensions identifying the location of the well.

d. The application for a well construction permit shall be accompanied by an extended plot plan which will show dimensions from a distance of within two hundred feet (200') of the proposed well site to the following:*

1. Existing and proposed structures
2. Surface waters and surface drainage courses
3. Subsurface sewage disposal fields, trenches, or pits, and adjoining septic tanks or cesspools
4. Subsurface fuel storage tanks
5. Other potential sources of pollution an experienced well driller should reasonably be expected to recognize
6. Property lines
7. Public way

e. The Board of Health will charge a fee of fifty dollars (\$50) for a well construction permit or a well destruction permit.

* Best available adjacent plot information will be required. Acceptable information sources shall include Board of Health records, on-site inspection, or other official records.

f. The Board of Health may require well location and construction modifications where reasonable health threats exist or when unusual hardships exist and equivalent water quality protection may be provided.

g. Well construction may proceed upon approval of application permit.

h. All permits for well construction and destruction shall expire at the end of twenty-four (24) months from the date of issuance.

SECTION 1.8 REPORTS TO THE BOARD OF HEALTH REQUIRED FOR A WATER SUPPLY CERTIFICATE

The following shall be required for a water supply certification which shall be required for the operation of a new well and/or the issuance of a building permit in the Town.

a. For homes which will be served by private wells the following must be provided within thirty (30) days of the well completion:

1. A completed and approved application permit referred to in SECTION 1.7 above.
2. Well construction permit issued by the Board of Health to document that the application has been approved.
3. A copy of the Water Well Completion Report as required by the Massachusetts Water Resources Commission is to be provided by the well driller.
4. Water Quality Analysis that meets the minimum acceptable standards listed below:

Coliform bacteria*	none detected
Sodium (Na)	20 mg/l
Chloride (Cl)	250 mg/l
Nitrate Nitrogen (NO ₃)*	10 mg/l
Nitrite Nitrogen*	0.1 mg/l
Iron (Fe)	1.3 mg/l
Manganese (Mn)	0.05 mg/l
pH	6.5 – 8.5
Total hardness	100 mg/l
Turbidity	5 units
Color	15 units

Additional or repeated tests may be required by the Board where, in the opinion of the Board, it is necessary for the protection of the public health, safety, and welfare.

* No variances may be granted on these primary standards of the Safe Drinking Water Act.

The results of such tests shall also be provided to the owner of the property to be served by the well and all tests shall be performed by a DEQE (Department of Environmental Quality Engineering) approved laboratory. The Board of Health may required additional waer quality tests where reasonable contamination threats are known to exist.

5. A Certificate of yield by the well driller and/or pump installer that water quantity standards have been met as required below:

1. Yield test pumping shall be conducted at a rate at least equal to the pumping rate expected during normal well use and shall be conducted for a minimum of four hours.

2. The required minimum well yield will vary depending on the depth of the well. Overall, a well is required to yield 110 gal/bedroom/day as per Title 5 (310 CMR 15.00). In specifics, the minimum well yield shall conform to the following table:

Depth of well	Gallon/min for 4 hrs
0-150 feet	4
150-200 feet	3
200-250 feet	2
250-300 feet	1
300 feet and deeper	½

SECTION 1.9 REQUIREMENT TO DESTROY ABANDONED WELLS

A well that is abandoned shall be destroyed to protect the groundwater supply and to eliminate potential physical hazards.

All abandoned wells shall be destroyed in compliance with the draft Minimum Requirements fo teh Construction of Private Wells, Section 16/15, written by DEQE. The draft requirements constitute part of these regulations and are incorporated herein by reference.

SECTION 1.10 PENALTY

Whosoever violates any of these Rules and Regulations shall upon conviction be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500) except when otherwise provided by law.

Whoever violates any provision of these Rules and Regulations may, in the discretion of the Board of Health or its Agent, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. For the purpose of this provision the penalty to apply in the event of a violation shall be as follows: \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.

SECTION 1.11 SEVERABILITY

If any article, regulation, paragraph, sentence, clause, phrase, or word of the Rules and Regulations adopted by the Board of Health shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of said regulations which shall remain in full force and effect and to this end provisions and Rules and Regulations of the Board of Health are hereby declared severable.

SECTION 1.12 AMENDMENTS

These regulations or any portion thereof may be amended, supplemented, or repealed from time to time by the Board.

SECTION 1.13 INVALIDATION BY STATE LAW

Any part of these rules and 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.

SECTION 1.14 VARIANCE

1. The Board of Health 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:
 - a. The enforcement thereof would do manifest injustice.
 - b. The applicant has proven that the same degree of environmental protection, and the 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 applicant to the satisfaction of the Board.
2. Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefor.
3. 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 30 days elapse from its issuance unless the Board certifies in writing that an emergency exists.
4. 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. 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.

5. No variance may be granted for: a new well installed in a new building lot; for the distance between leachfield and well as specified in 1.6.a; and for water quality standards as specified under 1.8.a.4.