

CEDAR COUNTY ORDINANCE #14

SANITARY STANDARDS FOR NONPUBLIC WATER WELLS

On June 13, 1988, the Cedar County Board of Supervisors adopted the Environmental Protection (567), Chapter 38, Iowa Administrative Code, pertaining to "Private Water Well Construction", County Ordinance #14 as follows:

Chapter 38 PRIVATE WATER WELL CONSTRUCTION PERMITS

567--38.1(455B) Definitions

"Abandoned well" means a water well which is no longer in use or which is in such a state of disrepair that continued use for the purpose of accessing groundwater is unsafe or impracticable.

"Agreement" means a signed document between the department and the County Board of Supervisors with which the department delegates the authority to issue private well drilling permits to the County Board of Supervisors or its designee.

"Contiguous" means any number of parcels of land that physically touch one another including tracts of land separated by roads, railroads or streams; except that for the purpose of reporting on other existing wells on the property, the radius of a contiguous piece of land shall be limited to one mile from the site of the new well constructed.

"Contractor" means a person engaged in the business of well construction or reconstruction. The term may include a corporation, partnership, sole proprietorship, association or any other business entity, as well as any employee or officer of such an entity.

"Construction" means the physical act or process of making a water well including, but not limited to, siting, excavation, construction and installation of equipment and materials necessary to maintain and operate the well.

"Department" means the Iowa Department of Natural Resources.

"Director" means the director of the department or a designee.

"Groundwater" means any water below the surface of the earth.

"Inactive water well" means a water well which is not currently in use and is capped or sealed to prevent the entrance of contaminants into the well, but is in such a condition that it can be activated to produce a safe supply of water.

"Landowner" means an individual, trust, partnership, corporation, government or governmental subdivision or agency, association or other legal entity that has legal or equitable title to a piece of land.

"Landowner's agent" means a person who acts for or in place of the landowner by authority from the landowner.

"Private water well" means a well that does not supply a public water supply system.

"Protected source" means a surface water or groundwater source recognized by rule as deserving special protection in order to ensure its long-term availability, in terms of either quality or quantity, or both, to preserve the public health and welfare.

"Public water supply system" means a system for the provision to the public of piped water for human consumption if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"Water well" means an excavation that is drilled, cored, bored, augured, washed, driven, dug, jetted, or otherwise constructed for accessing groundwater. Water well does not include an open ditch or drain tiles.

567--38.2(455B) Forms. The following application form is currently in use:

Application for a permit to construct a new private water well. 11/87. 542-0988.

567--38.3(455B) Permit requirement.

38.3(1) When permit required. A landowner or landowner's agent shall not drill or construct a new private water well without first obtaining a well construction permit issued by the department or by a County Board of Supervisors or the Board's designee authorized to issue such permits pursuant to rule 38.15(455B). Examples

of private water wells requiring well construction permits include, but are not limited to: domestic wells, livestock wells, irrigation wells, recreational-use wells, monitoring wells, heat pump wells, industrial wells, and dewatering wells, except that dewatering wells shall be exempt from the construction standards of Chapter 49 (nonpublic water wells).

38.3(2) Exemptions. The following types of excavations do not need private water well construction permits: soil boring, percolation test holes, sand and gravel and limestone exploration holes, excavations for storing and extracting natural gas or other products, gravel pits and quarries and all monitoring wells required as part of a permit or a construction approval issued by the Department. Test holes used to determine the availability, quality or depth of groundwater are also exempt provided that all the following conditions are met.

- a. The use of the test hole is limited to the conduct of the test only.
- b. The duration of the test is not more than seven consecutive days.
- c. The test hole is properly closed immediately after the test is completed in accordance with Chapter 39 "Requirements for Properly Plugging Abandoned Wells" at the end of 38.3(2)c.

38.3(3) Caveat. Nothing in these rules shall be construed as exempting public water supply wells from the construction permit and water withdrawal permit provisions of part 567, Iowa Administrative Code.

567--38.4(455B) Form of application. Application shall be made on forms supplied the department. However, counties that have active delegation of authority to issue new private well construction permits pursuant to rule 38.115(455B) may develop and use their own application forms subject to the approval of the Department. Each application shall list all wells, including abandoned 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 shall be given in the form of a legal land description (section, township and range) to the nearest quarter of a quarter of a section and noted on a map or aerial photograph. The list of wells to be registered shall include but is not limited to abandoned wells, inactive wells, agricultural drainage wells, irrigation wells, domestic wells and livestock wells.

567--38.5(455) Fees.

38.5(1) Fee payment. Each application shall be accompanied by a nonrefundable fee of twenty-five dollars (\$25) in the form of a check or money order payable to the Department of Natural Resources, unless a County Board of Supervisors or the Board's designee is authorized to issue private well construction permits pursuant to rule 38.15(455B). In such cases where the permitting authority is delegated to the county, the County Board of Supervisors may set a different fee and shall designate the terms for fee payment. More than one proposed well on one contiguous piece of property may be listed on one application and only one fee need be paid irrespective of the number of wells listed on the application form. A proper application shall consist of a fully and properly completed form and nonrefundable fee.

38.5(2) Exemption. The department is exempt from the fee payment requirements of these rules.

567--38.6(455B) Well maintenance and reconstruction. A private well construction permit is required for all replacement wells. A private well construction permit is not required for the repair, maintenance, rehabilitation or construction 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.

567--38.7(455B) Emergency permits.

38.7(1) Granting of emergency permit. Each County Board of Supervisors or the Board's designee may grant an emergency permit to a landowner or the landowner's agent if emergency drilling is necessary to meet an immediate need for water. The emergency permit and application must be signed by the Board of Supervisors or the Board's designee and shall be on forms obtained from the department prior to the emergency well construction taking place.

38.7(2) Submittal to department. A copy of the permit application signed by the Chairperson of the Board of Supervisors and fee shall be sent to the department within thirty days of the granting of the permit by the County Board of Supervisors or its designee. In the event the permitting authority has been delegated to the county, no fee need be remitted to the department.

38.7(3) Counties with delegation. Counties with active delegation of authority to issue private water well construction permits, as provided for in rule 38.15(455B), need not follow the special processing and reporting requirements for emergency permits specified in 38.7(1) and 38.7(2). In these counties, emergency permit applications may be made on approved county forms as provided for in 38.4(455B) and the reporting requirements shall be on a routine basis in accordance with rule 38.15(3)(455B).

567--38.8(455B) Permit issuance and conditions.

38.8(1) When issued. Upon receipt of a complete application, the department shall issue a permit to the landowner or landowner's agent except as provided in rules 38.7(455B), 38.12(455B) and 38.15(455B).

38.8(2) Not withdrawal permit. Each permit shall include notification that a private well construction permit is not a water withdrawal permit and does not eliminate the necessity of obtaining any water withdrawal permits required in Chapters 51 and 52 of these rules. A water withdrawal permit is required before an applicant can withdraw more than twenty-five thousand (25,000) gallons of water per day, from any source or combination of sources in the State of Iowa.

38.8(3) Construction by registered well driller. Each well construction permit shall require that each well shall be constructed by a registered well driller in compliance with Chapters 37 and 49 of these rules. However, temporary dewatering wells at construction sites shall be exempt from the construction standards of Chapter 49.

567--38.9(455B) Noncompliance. Violations of any of the provisions of this chapter may be addressed by the department pursuant to Iowa Code Sections 455B.109, 455B.175 and 455B.191.

567--38.10(455B) Expiration of a permit. A private well construction permit shall expire one calendar year from the date of issuance. If construction of the proposed well is not started prior to the expiration date, a new application plus a new nonrefundable fee must be filed with the department or the County Board of Supervisors pursuant to rule 38.15(455B).

567--38.11(455B) Transferability. A private well construction permit is not transferable.

567--38.12(455B) Denial of a permit. The department may deny a private well construction permit if granting the permit would lead to the violation of state law, would result in groundwater contamination, would lead to withdrawal from a protected source; or the director determines that the well would threaten public health or the environment. Examples of wells that could threaten public health or the environment and therefore may be denied construction permits include, but are not limited to: in-situ mining wells, wells which may result in a negative impact on an identified point source of groundwater contamination and cause leachate plume to spread or migrate, underground injection wells except as provided in 50.6(4) and 62.9 of these rules.

567--38.13(455B) Appeal of a permit denial. Any applicant aggrieved by a decision issued under the provisions of this chapter may file a notice of appeal with the director. The notice of appeal must be filed within thirty (30) days of the date of the permit decision. The form of the notice of appeal and appeal procedures are governed by Chapter 7 of these rules. Appeal of a permit denied by a county which has been delegated authority to issue private water well permits shall be administered by the county in accordance with their appeal or judiciary review process and can only be appealed to the Department if delegation to the county is suspended, rescinded or revoked.

567--38.14(455B) Effective date. The provisions of this chapter of the rules shall become effective on July 1, 1988.

567--38.15(455B) Delegation of authority to County Board of Supervisors.

38.15(1) Application by board. A County Board of Supervisors requesting the authority to issue private well construction permits shall apply to the department in accordance with Chapter 28E, Code of Iowa. The application shall include statements of agreement to comply with this chapter of the Iowa Administrative Code. Additional information may be requested by the department.

38.15(2) County standards. The County Board of Supervisors may impose additional standards as local conditions dictate, but cannot be less stringent than those required by the provisions of this chapter.

38.15(3) Information to department. The delegation agreement shall provide for the method, format and frequency of reporting all permit application information to the department.

38.15(4) Board authority. After delegation of authority to a County Board of Supervisors, all applications in that county shall be made to the Board or its designee except that all new private well permit applications by state or federal agencies shall be made to the Department.

38.15(5) Term of delegation. The delegation of authority may be for up to five years and may be redelegated at the discretion of the department.

567--38.16(455B) Concurrent authority of the department. Notwithstanding the delegation of permit granting authority pursuant to rule 38.15(455B), the department reserves the right to exercise concurrent authority. In cases where the Board or its designee fails to act on an application, or the director determines that a particular

application cannot be appropriately evaluated by the Board or its designee, the department may review such an application without invoking the provisions of rule 38.17(455B).

567--38.17(455B) Revocation of delegation agreement. The department may revoke the delegation to issue private well construction permits if the Board of Supervisors or its designee: failed or refused to carry out the provisions of this chapter in a timely manner; or violated any of the provisions of the delegation of authority agreement with the department.

These rules are intended to implement 1987 Iowa Code Supplement Section 455B.187 and Iowa Code Subsection 455B.105(12).

ITEM 2. Amend rule 49.2(455B) as follows:

567--49.2(455B) Applicability. The provisions contained herein apply to all nonpublic water wells constructed after the effective date of these rules and include existing water wells undergoing major rehabilitation or reconstruction.