

**TOWN OF MASHPEE
BOARD OF HEALTH**

PRIVATE WELL REGULATION

I. PURPOSE

The purpose of this regulation is to provide for the protection of public health, safety and welfare, and protection of the environment by requiring the proper siting, construction, and testing of private wells.

II. AUTHORITY

This regulation is adopted by the Mashpee Board of Health (hereinafter referred to as “the Board”), pursuant to its authority under M.G.L. c. 111, §31. These regulations supersede all previous regulations for Private Wells adopted by the Board of Health.

III. DEFINITIONS

The following words and phrases shall, for the purposes of this regulation, have the meanings specified in this section. Words and phrases not defined in this section shall have their conventional meanings unless expressly stated otherwise.

Agent: any person designated and authorized by the Board to implement, in whole or part, these regulations. To the extent provided by the Board, the agent shall have all the authority of the Board and shall be directly responsible to the Board and under its direction and control.

Applicant: any person who applies to construct a private well.

Board: the Board of Health of the Town of Mashpee, Massachusetts or its authorized agent.

Certified Laboratory: a laboratory certified by the Department for the analysis of drinking water and required water quality analytes. Provisional certification is acceptable.

Department: Massachusetts Department of Environmental Protection.

Drinking Water: water used for human consumption.

Irrigation Well: a well that is used for the sole purpose of watering or irrigation. The well shall not be connected at any time to a dwelling or a building unless it meets the requirements of a Private Drinking Water Well and has the Board’s written approval.

Private Drinking Water Well: any Private Well that is used for the purpose of supplying water used for human consumption.

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Private Well: any hole or shaft drilled into the ground to inject or withdraw water, other fluids, or gasses, monitor soil gasses, monitor groundwater levels or water quality, transfer heat, or provide cathodic protection that is not regulated as a public water supply under 310 CMR 22.00.

Pump: the mechanical equipment or devices used to remove water from a well. For installation or repair purposes, the pump or pump system includes all piping up to the metering device or, if none, then up to the main control valve inside the foundation of the structure served by the well.

Structure: a combination of materials assembled at a fixed location to give support or shelter, such as a dwelling, building, framework, retaining wall, fence, or the like.

Water Used for Human Consumption: water that is used for drinking, bathing, showering, cooking, dishwashing, or maintaining oral hygiene.

Well Driller: a person authorized by nontransferable Certification with MA DEP, under 310 CMR 46.00, to engage in the business of well drilling and alteration, determining well yield and pump installation.

IV. WELL CONSTRUCTION PERMIT

- A. Pursuant to 310 CMR 46.02(1), no person in the business of digging or drilling shall construct a well unless certified by the MA DEP Well Drillers Program.
- B. A Massachusetts certified well driller shall obtain a Well Construction Permit (hereinafter referred to as a “permit”) from the Board prior to commencing construction of a private well.
- C. Each permit application to construct or repair a private well shall include the following:
 - 1) The property owner's name and address.
 - 2) The well driller's name and proof of valid Massachusetts certification.
 - 3) A plan showing the location of the proposed well in relation to existing or proposed above or below ground structures including, but not limited to the location of any existing or proposed on-site sewage disposal soil absorption system or leach pit, and the location of any sewage disposal soil absorption system or leach pit on all directly abutting properties.
 - 4) Certification that the well driller has verified all prior and/or current land uses within two hundred (200) feet of the proposed well location, and determined that no potential source(s) of contamination exists.
- D. Upon receipt and review of the above documents, the Board shall make a final decision on the permit application. A final decision shall be in writing and shall comprise one of the following actions:

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- 1) Issuance of the permit.
 - 2) Denial of the permit with the reason(s) for denial provided in writing to the applicant.
 - 3) Issuance of the permit with condition(s) of approval provided in writing to the applicant.
- E. The permit shall be on site at all times that work is taking place. Each permit shall expire one (1) year from the date of issuance unless revoked for cause, or extended. Permits may be extended for one additional six (6) month period provided that a written explanation for the request is received by the Board prior to the one-year expiration date.
- F. Permits are transferable within one (1) year of initial application and upon appropriate written notice from the new certified well driller.

V. WELL CONSTRUCTION REQUIREMENTS

- A. Any work involving the connection of the private well to the distribution system of the residence must conform to the local plumbing code. 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 pump installer or certified well driller, including the installation of the pump and appurtenance(s) in the well or house.
- B. 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 without prior approval of the Board.

VI. WELL LOCATION AND USE REQUIREMENTS

- A. In locating a well, the applicant shall identify on a plan all potential sources of contamination, which exist or are proposed within two hundred (200) feet of the site. When possible, the well shall be located up-gradient of all potential sources of contamination and shall be as far away from potential sources of contamination as possible, given the layout of the property.
- B. Per the Mashpee Board of Health Moratorium on Groundwater Wells, private drinking water wells proposed to be located in areas of documented, suspected, or anticipated groundwater contamination are prohibited. Irrigation wells proposed to be located in areas of documented, suspected or anticipated groundwater contamination are also prohibited, unless a variance is granted by the Board prior to construction of the well, and any/all conditions of approval are met.
- C. No private well shall be permitted for use as a potable water source unless it meets the following setback requirements:
- 1) 10 feet from the property line
 - 2) 25 feet from public or private roadway

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- 3) 15 feet from right of way
 - 4) 50 feet from building sewer line or septic tank
 - 5) 150 feet from leaching field or drywell
 - 6) 100 feet from stable, barnyard, manure storage
 - 7) 250 feet from an underground fuel storage or pesticide tank
 - 8) 25 feet from any surface water, including, but not limited to wetlands
- D. The Board reserves the right to impose minimum setback requirements from other potential sources of contamination not listed above. All such additional setback requirements shall be listed, in writing, as a condition of the permit.
- E. Each private well shall be located so that it is accessible for repair, maintenance, testing and inspection. The well shall be completed in a water bearing formation that will produce the required volume of water under normal operating conditions.
- F. Water supply lines shall be installed at least ten (10) feet from and eighteen (18) inches above any sewer line. Whenever water supply lines must cross sewer lines, both lines shall be constructed of Class 150 pressure pipe and shall be pressure tested to assure water tightness.
- G. No private well, or its associated distribution system, shall be connected to either the distribution system of a public water supply system or any type of waste distribution system.

VII. WATER QUALITY TESTING REQUIREMENTS

- A. On a vacant parcel of land, where connection to Town water is unavailable and where a private drinking water well is proposed, a drinking water analysis shall be performed by an approved laboratory prior to the Board's approval of a Well Construction Permit or Building Permit. A current and valid water analysis report is required prior to the Board's endorsement of an occupancy permit.
- B. After the construction of a private well has been completed and prior to using it as a private drinking water well, baseline water quality testing shall be conducted.
- C. Water quality testing of the private drinking water well, utilizing the applicable US EPA approved method for public drinking water testing, shall be conducted by a Massachusetts or EPA certified laboratory and shall include analyses for the following parameters:
- Arsenic
 - Chloride
 - Copper
 - Fluoride
 - Hardness
 - Iron

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- Lead
 - Manganese
 - pH
 - Sodium
 - Total Coliform bacteria
 - E. coli bacteria
 - Nitrate/Nitrite
 - PFAS (per- and polyfluoroalkyl substances) including the following six PFAS chemicals referred to as PFAS6:
 - perfluorooctane sulfonic acid (PFOS)
 - perfluorooctanoic acid (PFOA)
 - perfluorohexane sulfonic acid (PFHxS)
 - perfluorononanoic acid (PFNA)
 - perfluoroheptanoic acid (PFHpA)
 - perfluorodecanoic acid (PFDA)
- D. The Board, at their discretion, may require retesting, more frequent testing, or testing for additional parameters, where other water quality problems are known or suspected to exist. For example, in areas known to be, or suspected as being, impacted by other pollutants, the Board may require testing for volatile organic compounds (VOCs) and synthetic organic compounds (SOCs). This testing shall be conducted by a Department or EPA certified laboratory. All costs and laboratory arrangements for the water testing are the responsibility of the owner/applicant.
- E. This regulation requires that private drinking water wells meet all current Massachusetts' Primary and Secondary Drinking Water Standards and Guidelines adopted by the MA DEP Office of Research and Standards (ORS). In any case where a private drinking water well does not meet such Standards or Guidelines, as it deems necessary for the protection of public health, safety or welfare, the Board may take action including, but not limited to, requiring the property owner to provide an alternative source of drinking water.
- F. It is strongly recommended that the owner of every well used for drinking water, including those serving a property which is rented or leased, have its water tested at a Department certified laboratory for the following chemical and bacteriological parameters at a minimum of once a year: total coliform bacteria, e. coli bacteria, nitrate, nitrite, pH, conductivity, sodium, and iron.
- G. The owner of a rental property shall make results of all water quality tests available to all tenants of the property and to the Board. In cases where the well water does not meet the water quality standards outlined above, the Board may require the property owner to provide an alternative approved source of drinking water for the tenants.

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- H. Prior to selling, conveying, or transferring title to real property, the owner shall have tested the water of every private drinking water well serving that property. A water sample from each well shall be submitted to a Department or EPA certified laboratory for testing for the parameters listed in the Water Quality Testing Requirements section of this regulation. This water quality testing shall have been performed not more than one (1) year prior to transfer of the property. Results of the water quality testing shall be submitted to the Board prior to property transfer.
- I. The owner shall give copies of all available water quality test results of which he/she has knowledge (regardless of age of results) for the private drinking water well in question to any buyer and/or broker involved in the transfer. In the event that there is no buyer at the time the water is tested, a copy of all water test results must be given by the owner to the buyer before the property is put under agreement.
- J. For irrigation wells proposed to be located in areas of documented, suspected, or anticipated PFAS contamination, the Board, at its discretion, may require the applicant to submit a signed and notarized affidavit agreeing to conditions which may include, but shall not be limited to the following:
 - 1) Owner acknowledges the presence and risks from exposure to per- and polyfluoroalkyl (PFAS), and have read and understand the EPA, DPH, and CDC guidance on PFAS and other perfluorinated chemicals (PFCs).
 - 2) The owner acknowledges that the irrigation well may be discontinued or abandoned under orders from the Board of Health, if required.
 - 3) No cross-connection between the irrigation well and potable Town water supply shall occur.

VIII. WATER SUPPLY CERTIFICATION

- A. A newly constructed private drinking water well shall not be approved for use by the Board for an existing structure nor shall it be approved for use prior to issuance of an occupancy certificate for new construction until the following have been completed:
 - 1) a Well Construction Permit has been issued;
 - 2) a copy of the Well Completion Report has been submitted to the state and local Board of Health, as required by MassDEP Well Driller Program regulations (310 CMR 46.00);
 - 3) a copy of the water analysis report has been submitted to the Board.

IX. ENFORCEMENT

- A. The Board has authority to investigate suspected or known violations of these regulations and/or violations of the conditions of approval of any permit. The Board may take actions, as it deems appropriate, within its authority for the protection of public health, safety, welfare, or the environment, and to enforce any of the provisions of this regulation.

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- B. If any investigation reveals a violation of these regulations or the permit, the Board may order the private well owner to comply with the violated provision(s), and/or take other action within its authority as the Board deems appropriate.
- C. Any order the Board issues shall be in writing and served in the following manner:
 - 1) personally, by any person authorized to serve civil process;
 - 2) by any person authorized to serve civic process by leaving a copy of the order at the property owner's address;
 - 3) by sending the property owner a copy of the order by registered or certified mail, return receipt requested; or,
 - 4) by posting a copy of the order in a conspicuous place on or about the premises and by advertising it for at least three (3) out of five (5) consecutive days in one or more newspapers of general circulation within the municipality where the private well is located, if the property owner's last and usual place of residence is unknown or outside the Commonwealth.

X. HEARING

- A. Any person to whom the Board issues an order may request a hearing before the Board by filing with the Board, within seven (7) days after the day the order was served, a written request for a hearing. Upon receipt of a hearing request, the Board shall set a time and place for the hearing and shall inform the well owner in writing. The hearing shall commence within thirty (30) days from the day on which the written request was made, unless a later time is agreed to in writing by the Board and the person requesting the hearing. At the hearing the person requesting the hearing shall be given an opportunity to be heard and show why the order should be modified or withdrawn. After the close of the hearing, the Board shall issue a written decision to sustain, modify, or withdraw the order and shall mail a copy of the decision, by certified mail, return receipt requested, to the person who requested the hearing. If the Board sustains or modifies the order, it shall be carried out within the time period allotted in the original order or in the modification.
- 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 or in the office of the Board.
- C. If a request for a hearing is not filed with the Board within seven (7) days after the day an order has been served or if, after a hearing, the order has been sustained in whole or any part, each day's failure to comply with the order as issued or sustained shall constitute a separate violation.

XI. APPEAL

Any person aggrieved by the final order, variance, or conditions of approval for any permit, voted on by the Board may appeal to any court of competent jurisdiction as provided by the laws of the Commonwealth.

XII. PENALTIES

Any person who violates any provision of these regulations, or who fails to comply with any final Order of the Board for which a penalty is not otherwise provided in any of the Massachusetts General Laws, shall be fined not less than ten (\$10) nor more than five hundred (\$500) dollars. Each day's failure to comply with a final order or any provision of this regulation shall constitute a separate violation.

XIII. VARIANCE

- A. The Board may grant a variance to any provision of this regulation when, in its opinion, the enforcement would result in manifest injustice, and the applicant has demonstrated that the equivalent degree of protection will be provided without strict application of the particular provision(s) sought to be varied.
- B. The Board may issue a variance subject to such conditions as it deems necessary to public health, safety, welfare or the environment. Any such conditions shall be stated in writing in the Board's grant of the variance. The Board may revoke, modify or suspend, in whole or in part, a variance after the property owner has been notified in writing and is afforded an opportunity to be heard, pursuant to Section X of this regulation.

XIV. 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.

XV. EFFECTIVE DATE

This regulations was adopted on May 27, 1982, and shall become effective upon publication in a newspaper of general circulation. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, as provided by law and applicable regulations.

XVI. DISCLAIMER

The issuance of a well permit shall not be construed as a guarantee or certification by the Board or its agents that the water system will function satisfactorily or that the water supply will be of sufficient quality or quantity for its intended use.

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Per Order Of,
Mashpee Board of Health

Ernest Virgilio, Chairman
John Livingston, Co-Chairman
Edward Raposa, Clerk

Adopted: May 27, 1982

Revised: February 21, 2024 (Adv 3/8/24)