

## Chapter \_\_\_\_\_ - Construction and Abandonment of Wells

### *Section I: General Provisions*

(A) **Authorization:** The Polk County Board of Commissioners is authorized to adopt appropriate rules and regulations for the protection of the public health and safety.

(B) **Purpose:** Consistent with the responsibility to protect and advance the public health, it is declared to be the policy of the Polk County Board of Commissioners to require in Polk County, the location and construction of private water supply wells and abandonment of all wells, conform to such reasonable standards and requirements as may be necessary to protect the public health and groundwater resources. It is not the intent of this ordinance to guarantee water quality or quantity of the water supply. These factors are dependent upon the groundwater characteristics of the well site and influencing conditions of the aquifer.

(C) **Scope:** No person shall construct or abandon, or cause to be constructed or abandoned any water supply well not in compliance with the provisions of this ordinance and the regulations and standards as set forth in North Carolina Administrative Code (NCAC) Title 15A, Subchapter 2C, Section .0100; provided the standards set forth in Section .0100 shall apply to all water supply wells as set forth in this ordinance, unless stricter requirements are set forth herein. To the extent not inconsistent with this ordinance, the definitions of Section .0100 are incorporated herein.

(D) **Conflict with Other Laws and Regulations:** The provisions of any federal, state, county or municipal law or regulation establishing standards affording greater protection to the public welfare, safety, health and groundwater resources shall prevail within the jurisdiction of such agency or municipality over standards established by these regulations.

(E) **Site Inspection:** After review of the application for a well permit set forth below, the locations of such proposed water supply wells as are deemed necessary or appropriate shall be inspected by the Polk Department of Environmental Management ("PDEM") and found to comply with the provisions of these regulations before being constructed. The constructed well shall be inspected prior to connecting the well pump to any residential dwelling unit. The minimum horizontal separation between a well and the property line of a sanitary landfill, or former sanitary landfill site shall be 1000 feet or such greater distance as technical review may warrant.

(F) **Appeals:** Any person aggrieved by any action of PDEM representative with regard to wells shall first confer with the Polk County Manager ("Manager"), who may affirm or reverse the original decision of the representative. An aggrieved person dissatisfied with the Manager's decision, may appeal by giving a written notice of appeal to the Manager within fifteen days after the conference with the Manager. The notice of appeal shall set forth the person's grievances. Upon receiving this notice the Manager shall, within five working days, transmit to the Polk County Board of Adjustment ("Board for Appeals") the notice and all other pertinent papers. The Board for Appeals shall hold a hearing within 45 days after it receives the notice of appeal. The Board for Appeals shall give the appellant no less than five days' notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. No person shall take any action prohibited by PDEM under these regulations until there is a final resolution of the grievance.

(G) **Penalties:** Any person who willfully violates any provision of these regulations, or any other issued pursuant thereto, on first offense, shall be guilty, punishable and fined as a Class 3 misdemeanor, and on second or subsequent offense shall be punishable as a Class 1 misdemeanor by a fine not to exceed five-hundred (500) dollars or imprisonment not to exceed thirty (30) days as deemed appropriate by the judicial system. Each day shall be considered a separate violation. The Manager may also institute an action in the Polk County Superior Court for injunctive relief.

## **Section II: Driller and Pump Installation and Service Registration**

(A) Every person, firm or corporation engaged in the business of constructing or abandoning wells in Polk County shall register annually with PDEM. Only applicants currently certified with the State will be registered with the PDEM.

(B) Registration shall be accomplished during the period from January 1 to January 31 of each year, except the initial registration period, which begins following adoption of these regulations by the Polk County Board of Commissioners and expires the following January 31.

(C) Registration shall be accomplished by completing and submitting to PDEM a registration application form provided by PDEM for this purpose.

(D) Upon receipt of a properly completed application form, and the applicable fee, the applicant will be issued a certificate of registration.

## **Section III: Permits**

(A) It shall be unlawful for any person to construct or abandon a private water supply well in Polk County without first obtaining a permit from PDEM. The well owner or his authorized agent shall obtain the permit. Permits will be valid for one (1) year from the date of issue provided that site conditions have not changed. When a permit has become invalid, the installation shall not be commenced or completed until a new permit has been obtained.

(B) The location of all proposed private water supply wells in Polk County shall comply with these rules and regulations.

(C) No well contractor shall commence any drilling, replacement or abandonment activity without a permit. The contractor must have a copy of the permit on site during construction.

(D) The PDEM Director is authorized to revoke any permit issued pursuant to these regulations upon the determination that full compliance with the regulations has not been met.

(E) No residence, place of business or place of public assembly shall be occupied, nor shall any well be placed into use until PDEM issues a **Certificate of Completion** which indicates that the water supply well is in compliance with these regulations and all conditions prescribed by the **Well Permit** have been met.

(F) Locations for public water wells, community water systems, or monitoring/recovery/ injection wells shall be approved in accordance with the applicable regulations as promulgated in the NCAC Title 15A; Subchapters 2C and 18C. Such wells shall be and located, designed, constructed, operated, and abandoned according to the applicable standards administered by the North Carolina Department of Environment and Natural Resources (DENR).

(G) Any person completing a well which is to serve a residence, place of business, or place of public assembly that is currently connected to, or will be connected to, a septic tank system shall obtain a copy, if available, of the septic tank system layout, site plan, or plat from the owner or the District Health Department prior to construction of the well. If such layout, plan, or plat are not available, the person completing the well shall utilize the services of a licensed plumber to establish and clearly delineate the location of the septic tank system.

(H) In addition to those requirements set forth in the well construction standards, well drillers shall be responsible for maintaining all minimum setback requirements between the well and any existing or permitted septic tank systems. Where a septic tank system layout, site plan or plat is not on file, the well driller shall provide, with the report as required by these rules, a diagram of all known and identifiable septic systems within 100 feet of the

constructed well. The inability to accurately locate or provide documentation on existing septic tank systems shall in no way be taken as a guarantee by the PDEM or the Health Department, that septic tank systems are not located within the setbacks established in these regulations.

#### ***Section IV: Well Record Required***

Any person completing or abandoning any well in Polk County shall submit to PDEM and to the well owner a record of the construction on a ***Well Record*** form provided by PDEM. The ***Well Record*** shall be submitted within 5 days after completing construction of the well. The ***Certificate of Completion*** will not be issued until the ***Well Record*** has been reviewed and approved by PDEM. The ***Well Record*** shall be certified by the contractor or persons completing the construction or abandonment.

#### ***Section V: Fees***

The Polk County Board of Commissioners shall establish a fee for permits. Such fees will be based upon the estimated cost to the County and PDEM of the well permit and inspections.

#### ***Section VI: Severability***

If any provision or clause of these regulations shall be declared invalid, void or unconstitutional, such declaration shall not invalidate any other provision or clause hereof.

#### ***Section VII: No Implied Warranty or Guarantee***

These rules, or adherence to these rules, shall not be taken as a warranty or guarantee of producing an adequate, safe, and potable water supply.

#### ***Section VIII: Effective Date***

These rules and regulations shall be in full force and effective from and after \_\_\_\_\_, 2004.

***Resolution Adopting Regulations Governing Construction and Abandonment of wells in Polk County***

Whereas, public water supply for human use and consumption is not available in large portions of Polk County, and

Whereas, residents and businesses must use groundwater wells to provide water supply for human use and consumption; and new wells are added each year to provide additional supplies for domestic, municipal, industrial, and commercial water uses, and

Whereas, the Polk County Board of Commissioners is of the opinion that in order to protect public health in Polk County, it must regulate the construction and abandonment of wells in Polk County

Now, therefore, be it resolved and ordained by the Polk County Board of Commissioners that the preceding regulations for the protection and promotion of public health in Polk County are hereby adopted and ordained as the next available chapter in the Polk County Code of Ordinances, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004 .

Attest:

Polk County Board of Commissioners

\_\_\_\_\_  
Anne Britton, Clerk to Board  
Kim Talbot, Chair

\_\_\_\_\_

Daryl

Approved as to legal form:

\_\_\_\_\_  
County Attorney