

CUMBERLAND COUNTY BOARD OF HEALTH

ORDINANCE NO. 12

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF HEALTH REGULATING THE LOCATION, CONSTRUCTION, ALTERATION, INSPECTION, TESTING AND USE OF NON-COMMUNITY, and PRIVATE WATER SUPPLY SYSTEMS WITHIN THE JURISDICTION OF THE CUMBERLAND COUNTY BOARD OF HEALTH

WHEREAS, the Cumberland County Board of Health deems it absolutely necessary to protect the public health and to prevent the pollution and contamination of the water resources; and

WHEREAS, N.J.S.A. 26:3A2-5(c) provides that a County Board of Health shall exercise within the area of its jurisdiction all of the powers granted to a local board of health; and

WHEREAS, N.J.S.A. 26:3-31 (a) empowers the Cumberland County Board of Health to pass ordinances to protect the public's water supply and prevent the pollution of any stream of water or well, the water of which is used for domestic purposes and to prevent the use of or to close any well, the water of which is polluted or detrimental to the public health; and

WHEREAS, in N.J.S.A. 26:3A2-22, the Legislature has declared it the policy of the State to provide for the administration of environmental health services by County Departments of Health throughout the State, which services shall include the enactment, monitoring and enforcement of environmental health ordinances on a countywide basis; and

WHEREAS, N.J.S.A. 26:3A2-27 further empowers the Cumberland County Board of Health to adopt and enforce environmental health ordinances for the territory in the County of Cumberland under the jurisdiction of the Cumberland County Board of Health, including ordinances controlling drinking water and water pollution; and

WHEREAS, the State Legislature has provided in N.J.S.A. 26:3A2-27 that a County Board of Health may adopt standards for the construction and certification of wells which are more stringent than existing State Standards provided that the State Standard allows for the adoption of more stringent ordinances; and

WHEREAS, N.J.S.A. 58:12A-16 of the New Jersey Safe Drinking Water Act further charges a County Board of Health with the responsibility of developing voluntary procedures for the testing of individual homeowner wells; and

WHEREAS, N.J.A.C. 7:10-12.1 et seq provides a County Board of Health with discretion in testing non-public water systems to determine the acceptability of said water supply; and

WHEREAS, N.J.A.C. 7:9E et. seq. establishes water test parameters and requirements for the collection, analysis, and submittal of test results and establishes procedures and requirements for maintaining the confidentiality of any information submitted to the Department or other government agencies pursuant to the Private Well Testing Act; and

WHEREAS, the Cumberland County Board of Health believes it is in the best interest of the residents of Cumberland County to regulate the location, construction, inspection, alteration, testing and use of individual wells and individual sewage disposal systems; and

WHEREAS, the testing of individual wells will assist the County Board of Health in determining the existence and migration of pollution and hazardous substances in the surface and ground waters of the County:

NOW THEREFORE, BE IT ORDAINED BY THE CUMBERLAND COUNTY BOARD OF HEALTH OF THE COUNTY OF CUMBERLAND AND STATE OF NEW JERSEY FOLLOWS:

Section 1. Short Title:

This Ordinance shall be known as the “Cumberland County Board of Health Non-Community and Individual Water Supply System Ordinance.”

Section 2. Definitions:

This Ordinance incorporates the definitions contained in the Definition Subchapters of the New Jersey Administrative Code Title 7 Department of Environmental Protection and Title 8 Department of Health and Senior Services as if specifically set forth herein. In addition to the definitions contained in the New Jersey Administrative Code, Title 7 and Title 8, the following additional definitions are adopted as part of this ordinance:

Abandoned Well: Means any well which is not in use, is not properly maintained, or no longer serves its intended use as demonstrated by the permit issued for its construction, or any well which endangers or threatens the subsurface or percolating waters by the intrusion of salt water or from any other cause, or endangers life.

Act: The New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. as amended and supplemented from time to time.

Administrative Authority: The administrative authority for the purpose of this Ordinance is the Cumberland County Board of Health pursuant to N.J.A.C. 7:10-1.3 and it shall be the administrative authority for the purpose of granting administrative hearings per N.J.A.C. 7:10-12.43.

Alteration : Shall mean changes to the well head, well casing and/or piping. Alteration shall not include the replacement of a well pump, pressure tank or like equipment that does not in any way disturb the well head, well casing or well piping from the pump to the well head.

As is Condition: the purchase or sale of a property in its existing condition without repairs.

Authorized Agent: The authorized agent for the purposes of this Ordinance is the Cumberland County Department of Health.

Decommissioning: The permanent closure or sealing of any well in accordance with State regulatory procedures.

Irrigation Well: A well permitted as such and utilized for the application of water to the land or soil, to assist in the growing of agricultural crops, maintenance of landscapes, and re-vegetation.

Lease: a contract by which one party conveys land, property, services, etc., to another for a specified time.

Lot: A designated parcel, tract, or area of land established by a plat or as otherwise permitted by law.

Non-Potable Water Supply: Any water not used or intended to be used for a potable water supply, with no connection to plumbing fixtures, and permanently identified as such.

Person: Any individual, corporation, partnership, business or property owner.

Potable Water Supply: Any water used or intended to be used for drinking, bathing, culinary, or other personal contact purposes.

Replacement Well: A new Non Community Water Supply System that is being installed to replace an existing Non Community Water Supply System that is no longer functioning properly.

Sale: Fee simple title as passed from one person or legal entity to another person or legal entity by deed or other means of conveyance.

Secondary Parameter: As used in this Ordinance, refers to pH, iron and manganese.

Well: As used in this Ordinance, shall refer to a Non-Community or private water supply system

Section 3. Permit Required: Installation of Wells:

- A. No person shall locate, construct, or alter any potable or irrigation well within the County of Cumberland until a permit for the location, construction, and/or alteration of said well has been issued by the Cumberland County Health Department.

- B. The Cumberland County Health Department may issue a permit for the location and construction of a well subject to the following conditions:
 - (1) A completed application form is submitted to the Cumberland County Health Department together with a design plan prepared in accordance with the requirements and standards set forth in N.J.A.C. 7:10-12.1 et seq. as amended and supplemented from time to time. The well design plan and application shall be prepared and submitted by a well driller licensed by the New Jersey State Well Driller Examining and Advisory Board.
 - (2) The well design plan and application shall be compared to the approved sewage disposal design plan and application for the lot to assure consistency in design plans and to confirm appropriate setback distances and permit approvals.
 - (3) The appropriate State well permit has been approved and issued.
 - (4) The appropriate fee as set forth in ordinance #11, or its amendments or supplements has been paid.
- C. Any Permit issued hereunder shall become invalid if the authorized work is not commenced and completed prior to the time of expiration date of the State Well Permit.

Section 4. Denial of a Permit:

The issuance of a permit may be denied for any of the following reasons:

- A. The application or design plan submitted for the location, construction and/or alteration of a well does not comply with the requirements and standards set forth in N.J.A.C. 7:10-12.1 et seq. as amended and supplemented from time to time.
- B. The Cumberland County Health Department has knowledge of an individual sewage disposal system within 100 feet of the proposed well that has been determined to be malfunctioning, unpermitted or has a non-compliant component which may affect the setback requirements to the well.
- C. The plans, application or other data is not in the format required by the Cumberland County Health Department.
- D. The application or design plan submitted is deemed incomplete by the Cumberland County Health Department. In the event an application or design is deemed incomplete, the Cumberland County Health Department shall advise the applicant in writing of any deficiencies.
- E. A public community water supply system is presently available to serve the property upon which a well is proposed to be located and constructed.
- F. The installation, use and/or operation of the well is prohibited by Federal, State, or Local law, regulation, or order.

Section 5. Decommissioning of a Well:

- A. Any well determined to be abandoned shall be properly decommissioned.
- B. By definition a replacement well is a new Non Community Water Supply System proposed to be installed to replace an existing Non Community Water Supply System. The existing well must be properly decommissioned by a well driller with the appropriate license.

Section 6. Final Certification of Wells:

- A. No well shall be placed into operation or use until the Cumberland County Health Department has issued a certificate indicating that the well is in compliance with the terms of the permit issued and the requirements and standards set forth and incorporated in this Ordinance and applicable State regulations.

Section 7. Granting of Final Certification of a Well:

The Cumberland County Health Department may grant final certification of a well provided the following requirements are met:

- A. The well has been located, constructed and/or altered in compliance with the approved design plan and permit issued by the Cumberland County Health Department and the requirements and standards set forth and incorporated in this Ordinance and applicable State regulation.
- B. Where the design plan for the location and construction of a well has been submitted by a well driller, licensed by the New Jersey State Well Driller Examining and Advisory Board, the well driller shall certify to the Cumberland County Health Department in writing that the well has been located, constructed, and installed in accordance with the design plan previously submitted to the Cumberland County Health Department and in accordance with all requirements and standards set forth and incorporated in this Ordinance. This document is known as the well record.
- C. A laboratory analysis of a water sample collected in accordance with, and analyzed for the parameters required in the Private Well Testing Act (PWTA) N.J.A.C. 58:12A-26 et seq., or its amendments or supplements, does not disclose the presence of any of the contaminants or substances in an amount which exceeds the maximum contaminant level (MCL) established under the PWTA, the regulations, or this Ordinance.
- D. Should the laboratory analysis in Section 7 C disclose contaminants which exceed the MCL established under the PWTA, a water treatment system shall be installed to correct for the contaminant and a laboratory analyzed sample taken after the treatment system shall yield results that do not exceed the PWTA MCL.
- E. A replacement well serving an owner occupied residential dwelling may be certified provided there are only exceedances of secondary parameters. All other parameters for the well must comply with this Ordinance.

- F. All fees due and payable to the Cumberland County Health Department, under Ordinance #11, or its amendments or supplements have been paid in full.
- G. The installation use and/or operation of the well is not otherwise prohibited by Federal, State, or Local Law regulation or order.
- H. The use or operation of the well does not otherwise pose an actual or potential health hazard to the owner of the property in question, the surrounding property owners or the public in general.

Section 8. Sale or Transfer of Ownership of Real Property Upon which a Well is Located:

- A. Every sale or lease of real property, not listed in C or D below, with the potable water supply provided by a private well located on the property; or any other real property with a potable water supply for which there is a well that has less than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days out of a year, shall have a water sample collected, analyzed and certified in accordance with the PWTA and Section 9 of this Ordinance.
- B. Prior to closing of title on the sale of real property the following conditions shall be met:
 - (1) The requirements of PWTA are met, and
 - (2) A Cumberland County Health Department Water Certification has been issued in accordance with Sections 7 and/or 9 of this Ordinance.
- C. Real Estate given as a gift bequest or which is devised by the Last Will and Testament of a deceased individual to any named beneficiary or given as a gift by one family member to another family member during the granters lifetime or which conveyance is made to carry out the judgment of any court having proper jurisdiction over the real estate or to carry the terms of a settlement agreement arrived at in any litigation affecting real estate or interest therein are specifically exempted from the compliance with A and B above.
- D. Property sold in "As is Condition" may transfer prior to meeting the requirements of testing and certification provided the Cumberland County Health Department is notified of the pending sale conditions. Upon such notice, the Cumberland County Health Department shall issue a Notice of Violation to the buyer/new owner immediately following the sale. The Notice of Violation is an official record stating that the property is not in compliance with the New Jersey Private Well Testing Act and this Ordinance. The new owner shall have 90 days to comply with the Notice.

Section 9. Collection and Certification of Water Test Results for the Sale of a Property Upon Which a Well is Located:

- A. Water samples collected for the purpose of Certification pursuant to this Ordinance shall be collected and analyzed by a laboratory certified by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:18-1.1 et seq.
- B. Initial water samples shall be collected by the certified laboratory in accordance with the sampling and testing requirements established by the PWTA.
- C. In the event that one or more parameters tested discloses an exceedance of standards established under the PWTA the parameters shall be retested after the appropriate treatment measures have been taken.
- D. The repeat sample shall be collected by a laboratory certified by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:18-1.1 et seq. The sample shall be collected from a cold water spigot used for drinking water purposes.
- E. Water sample test results shall be valid for certification under this Ordinance for six (6) months from the date of analysis for Coliform Bacteria, and one (1) year from the date of analysis for all other parameters.
- F. Health Department Drinking Water Certification will be issued when water test results show all parameters tested to be in compliance with drinking water standards established under the PWTA, the Regulations or this Ordinance and the appropriate fee as specified in Ordinance #11, or its amendments or supplements is received.
- G. The following non-potable water supply wells shall be exempt from the sampling and analysis requirements established under Section 7C of this Ordinance.
 - (1) Any non-potable well, the pumps and lines of which do not enter a building, crawlspace, or garage; or are directly connected to a sprinkler system manifold.
 - (2) Geothermal groundwater heat pump wells that are constructed and installed as totally enclosed systems and are incapable of being used as a potable water supply.
 - (3) Fire protection wells as defined in the State Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq. which is incapable of being used as potable water supply.

Section 10. Collection and Certification of Water Results for the Lease of a Property Upon which a Well is Located

- A. The lessor of any real property, the potable water supply which is a private well for which testing of the water is not required pursuant to any other state law, shall test the water supply for the parameters set forth in the PWTA every five (5) years.
- B. Water sample results shall be submitted to the Cumberland County Health Department for Certification in accordance with section 9 of this ordinance. Upon each change of tenancy, the lessor shall provide a written copy of the most recent water test results along with the Health Department Certification to the new tenant.

Section 11. Right of Entry:

The Cumberland County Health Officer or designee shall have access and entry to any property upon which there is located a well or individual sewage disposal system for the purpose of inspecting and/or testing the same.

Section 12. Order to Close:

The Cumberland County Health Officer may order any well which is determined to be detrimental to the public health closed until and unless the water is made potable.

Section 13. Severability:

In the event that any section, sentence, or clause of this Ordinance shall be deemed unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not in any manner render void or prejudice the enforcement of the remaining sections of this Ordinance.

Section 14. Violation and Penalties:

- A. In addition to any other liability or penalty imposed by law, any person violating any provision of this Ordinance shall be subject to a penalty of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1,000) Dollars for each offence.
- B. Each and every day in which a violation of any of the provisions of this Ordinance exists shall constitute a separate offense.

Section 15. Inconsistent Ordinance Repealed:

Cumberland County Board of Health Ordinance #7 and #7A and all other ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Pursuant to N.J.S.A. 26:3 A2-27, this Ordinance supersedes all inconsistent municipal and local board of health ordinances regulating the same subject matter.

Section 16. Effective Date:

This ordinance shall take effect after public hearing and 30 days after final adoption by the Cumberland County Board of Health unless disapproved by the Commissioner of the Department of Environmental Protection within said period pursuant to N.J.S.A. 26:3A2-27.

- A. A public hearing on this ordinance shall be held at the Cumberland County Board of Health Meeting on January 15, 2014 and February 26, 2014.
- B. The Secretary of the Board is hereby directed to publish and distribute this ordinance in accordance with law.
- C. Copies of this ordinance upon adoption shall be forwarded to:
 - 1. New Jersey Department of Environmental Protection
Bureau of Local Environmental Management
 - 2. All Municipalities within the Jurisdiction of the CCHD