

ORDINANCE

An Ordinance amending and supplementing Ordinance 94-1 entitled "OCEAN COUNTY BOARD OF HEALTH WELL AND INDIVIDUAL SEWAGE DISPOSAL SYSTEM ORDINANCE"

Be it Ordained by the Ocean County Board of Health of the State of New Jersey as follows:

SECTION 1: Definitions:

The words, terms and phrases used in this Ordinance shall be defined and have the same meanings as set forth in N.J.A.C. 7:9A-2.1, N.J.A.C. 7:9D-1.5; N.J.A.C. 7:9E-1.2 et seq. and N.J.A.C. 7:10-12, except as set forth below:

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

Administrative Authority. The administrative authority for the purpose of the ordinance is the Ocean County Board of Health.

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

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 to a potable water supply and permanently identified as such.

Plat. A map or maps of a subdivision or site plan.

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

PWTA. Private Well Testing Act, N.J.S.A. 58:12A-26 et. seq., and its accompanying regulations N.J.A.C. 7:9E-1.1 et seq., as the same may be amended and supplemented from time to time.

Regulations. The New Jersey Safe Drinking Water Regulations, N.J.A.C. 7:10-1 et seq., as the same may be amended and supplemented from time to time.

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

Transfer. A change of possession from one party to another party either by lease or otherwise for a period in excess of six (6) months.

SECTION 2. Permit Required: Installation of Wells:

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

B. The Ocean County Health Department may issue a permit for the location, construction and/or alteration of a well subject to the following conditions:

- (1) A completed application form is submitted to the Ocean County Health Department together with a design plan prepared in

accordance with the requirements and standards set forth in N.J.A.C. 7:9D-1 et seq. and N.J.A.C. 7:10-1et seq., as amended and supplemented from time to time.

- (2) Where the lot upon which a new well is proposed to be located or an adjacent lot is served by an individual sewage disposal system, the design plan shall be prepared by a Professional Engineer, licensed to practice in the State of New Jersey, and bear his raised seal and certification. Said plan shall indicate the location of a well which complies with the minimum setback requirements contained in N.J.A.C. 7:9D-2.1 et seq. and N.J.A.C. 7:10-12.1 et seq., as the same may be amended and supplemented from time to time. The Design Plan shall not exceed 24" x 36" in size.
- (3) Where the lot upon which a new well is proposed to be located and all adjacent lots are served by a public sanitary sewage disposal system, the well design plan may be prepared and submitted by a well driller licensed by the New Jersey State Well Drillers Examining and Advisory Board.
- (4) For the alteration or replacement of an existing well, the design plan may be prepared by a well driller licensed by the New Jersey State Well Drillers Examining and Advisory Board.
- (5) The appropriate fee, as set forth in Section 13 of this Ordinance, has been paid.

C. A permit issued under Section 2 B above shall expire twelve (12) months after the date of issuance of the permit. An expired permit may be renewed at the discretion of the Ocean County Health Department, provided the applicant has received a building permit from the municipality in which the property is located prior to the expiration date of the permit issued under Section 2 B above, and the applicant has paid the fee set forth in Section 13(J) of this Ordinance.

SECTION 3. Permit Required: Individual Sewage Disposal System:

A. No person shall locate, construct, repair or alter any individual sewage disposal system within the County of Ocean until a permit for the location, construction, repair and/or alteration of said system shall have been issued by the Ocean County Health Department.

B. The Ocean County Health Department shall issue a permit for the location, construction, repair and/or alteration of an individual sewage disposal system subject to the following conditions:

- (1) A completed application form is submitted to the Ocean County Health Department together with a design plan prepared in accordance with the requirements and standards set forth in N.J.A.C. 7:9A-1.1. et seq., as the same may be amended or supplemented from time to time.
- (2) The design plan shall be prepared by a Professional Engineer, licensed to practice in the State of New Jersey, and bear his/her certification and raised seal. The Design Plan shall not exceed 24" x 36" in size.
- (3) Upon application, the Ocean County Health Department may waive the requirement for certified engineering design plans for repairs to

individual sewage disposal systems serving a single family residential dwelling.

- (4) The appropriate fee, as set forth in Section 13 of this Ordinance, has been paid.

C. A permit issued under Section 3 B above shall expire twelve (12) months after the date of issuance of the permit. An expired permit may be renewed at the discretion of the Ocean County Health Department, provided the applicant has received a building permit from the municipality in which the property is located prior to the expiration date of the permit issued under Section 3 B above, and the applicant has paid the fee set forth in Section 13(J) of this Ordinance.

SECTION 4. Denial of a Permit:

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.7:9D-1.1 et seq. as amended and supplemented from time to time.

B. The application or design plan submitted for the location, construction, repair and/or alteration of an individual sewage disposal system does not comply with the requirements and standards set forth in N.J.A.C. 7:9A-1.1 et seq., as amended and supplemented from time to time;

C. The application or design plan submitted is deemed incomplete by the Ocean County Health Department. In the event an application or design plan submitted is deemed incomplete, the Ocean County Health Department shall advise the applicant in writing of any and all deficiencies;

D. A public community water supply system is presently available to serve the property upon which a well is proposed to be located and constructed, except where the well is intended to be used as a non-potable water supply and is identified as such;

E. A public sanitary sewage disposal system is presently available to serve the lot upon which an individual sewage disposal system is proposed to be located and constructed.

F. The installation, use and/or operation of the well or individual sewage disposal system is prohibited by federal, state or local law, regulation or order.

SECTION 5. Final Certification of Wells and Individual Sewage Disposal System:

No well or individual sewage disposal system shall be placed into operation or use until the Ocean County Health Department has issued a certificate indicating that said well or individual sewage disposal system has been located, constructed, repaired and/or altered in compliance with the terms of the permit issued and the requirements and standards set forth and incorporated in this Ordinance.

SECTION 6. Granting of Final Certification:

The Ocean County Health Department may grant final certification of a well or individual sewage disposal system provided the following requirements are met:

A. The well or individual sewage disposal system has been located, constructed, repaired and/or altered in compliance with the approved design plan and permit issued by the Ocean County Health Department and standards set forth and incorporated in this

Ordinance.

B. Where the installation or location of the well or individual sewage disposal system deviates from the approved design plan, an "as built" plan shall be submitted by a Professional Engineer, licensed to practice in the State of New Jersey, together with the engineer's certification that the well and/or individual sewage disposal system is constructed and installed in accordance with all requirements and standards set forth and incorporated in this Ordinance.

C. Where the installation or location of the well deviates from the approved design plan submitted in accordance with Section 2, paragraph B(3) an "as built" plan must be submitted by a well driller, licensed by New Jersey State Well Driller Examining and Advisory Board, identifying the new location. Such deviation shall only occur if it is impossible to comply with the originally approved plan.

D. Receipt of a satisfactorily completed copy of New Jersey State Department of Environmental Protection and Energy form DWR-138 title "Well Record".

E. In the case of the location and construction of a new well, when the laboratory analysis of a water sample collected and analyzed in accordance with Sections 7, 8 and 9 of this ordinance does not disclose the presence of any of the hazardous contaminants or substances set forth in Section 8(A) of this Ordinance in an amount which exceeds the maximum contaminant level established under the Act, the regulations or this ordinance for the same.

F. All fees due and payable to the Ocean County Health Department under Section 13 of this Ordinance have been paid in full.

G. The installation, use and/or operation of the well or individual sewage disposal system is not otherwise prohibited by federal, state or local law, regulation or order.

H. The use or operation of the well or individual sewage disposal system does not otherwise pose an actual or potential health hazard to the owner of the property in question or the public in general.

SECTION 7. Individual Wells: Collection of Water Samples:

A. Before final certification and operation of a new well, other than an exempt well as defined in Subsection B of this Section, or as otherwise required by the PWTA, N.J.S.A. 58:12A-27, the person owning the lot upon which a new well is located and constructed shall have a sample of the well water 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. to conduct testing for the individual hazardous contaminants and substances set forth in Section 8(A) of this Ordinance. The water sample shall be taken as close to the pumping well as possible. In no case shall treatment equipment be installed on a new well prior to the first sampling. The results of said laboratory analysis shall be forwarded directly by the laboratory to the Ocean County Health Department and to the Department of Environmental Protection, pursuant to N.J.S.A. 58:12A-30.

B. The following non-potable water supply wells shall be exempt from sampling and analysis requirements established under Sections 7, 8 and 9 of this Ordinance:

- (1) Any non-potable well, the pumps and lines of which do not enter a building, crawlspace or garage and which 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

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 are incapable of being used as potable water supply.

(4) Industrial wells which are incapable of being used as a potable water supply.

SECTION 8. Individual Wells: Testing Procedure:

A. The water sample collected under Section 7 of this Ordinance shall be analyzed by a certified laboratory as defined in N.J.A.C. 7:9E-1.2. Each water sample taken shall be analyzed for the parameters set forth in N.J.S.A. 58:12A-28, N.J.S.A. 58:12A-29, N.J.A.C. 7:9D-1 et seq., N.J.A.C. 7:9E-2.1, and N.J.A.C. 7:10-1, et seq., in order to determine whether any of those parameters are present in amounts which exceed the maximum contaminant levels established under the act and the regulations for the same. In addition to the parameters listed above, each water sample shall be tested for arsenic.

For potable water supplies, the recommended upper limits and optimal range for pH is hereby fixed as not less than 6.5 and not greater than 8.5 and turbidity shall not exceed one (1) Neophelometric Turbidity Units (NTU). The maximum contaminant level for lead is fixed at 10 parts per billion (ppb).

B. All water samples shall be collected, tested and analyzed in accordance with criteria and procedures established by the New Jersey Department of Environmental Protection in N.J.A.C. 7:9E-2.4. et seq., N.J.A.C. 7:10-12.33(c)(3) and N.J.A.C. 7:18-2.1. Upon request by the Ocean County Health Department, the laboratory submitting the test results shall submit proof that it is certified by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:9E-1.2. and N.J.A.C. 7:18-1.1. et seq. to conduct the tests necessary to determine the presence of the hazardous contaminants and substances set forth in Section 8(A) of this Ordinance.

C. In the event that the laboratory analysis of a water sample collected from a well reveals that the presence of any of the hazardous contaminants or substances identified in Section 8(A) of this Ordinance in an amount exceeding the maximum contaminant levels set forth or incorporated in this Ordinance for the same, the Ocean County Health Department must be notified prior to re-sampling the well for the purpose of determining re-sampling procedures.

SECTION 9. Individual Wells: Submission of Water Analysis Data:

A. The laboratory collecting the sample and performing the water analysis required under Sections 7 and 8 of this Ordinance shall submit a hard copy of the results of its analysis directly to the Ocean County Health Department containing sampling data as required by PW/TA.

B. The laboratory collecting the sample and performing the water analysis required under Sections 7 and 8 of this Ordinance shall also submit the results of its analysis to the Department of Environmental Protection pursuant to N.J.S.A. 58:12A-30. Said submission shall contain the information as required in N.J.S.A. 58:12A-30(c)(1).

SECTION 10. Sale or Transfer of Ownership of Real Property Upon Which A Well is Located:

No real property nor any interest in the same shall be sold or transferred which utilizes a well for its potable water supply until:

A. The well water has been sampled and analyzed in accordance with the procedures set forth in Sections 7, 8, and 9 of this Ordinance; and

B. The Ocean County Health Department has certified that the laboratory analysis of the water sample collected from said well does not disclose the presence of any of the hazardous contaminants or substances set forth in Section 8(A) of this Ordinance in an amount which exceeds the maximum contaminant level established under the Act, the Regulations, the PWTA, or this Ordinance for the same.

C. The granting of final certification by the Ocean County Board of Health shall be a valid certification until there is a sale or transfer of the property in question where that sale or transfer is more than six (6) months after the initial sampling date. In the event said sale or transfer is within six (6) months or less from the preceding certification, the transferor need not obtain a new certification.

D. All parties in interest to the sale or transfer of ownership of real property shall receive a copy of the final certification issued by the Ocean County Board of Health, a copy of the lab test results, a copy of any advisories issued by the Ocean County Health Department, and any other correspondence issued by the Ocean County Health Department related to the well water on the real property at issue.

E. In the event of a sheriff sale of a foreclosure property wherein the potable water supply is provided by private well, the Sheriff of Ocean County shall announce at the sale the necessity of the successful bidder to comply with this ordinance after obtaining title pursuant to said sale. The successful bidder shall obtain a well water certification prior to the first of the following events:

- a) Occupancy by successful bidder.
- b) Rental and occupancy to a new tenant, or
- c) Sale of property to a third party purchaser.

F. In the case of a rental property, the lessor, commencing on March 14, 2004, shall test the private well water on that property in accordance with this Ordinance and at least once every five (5) years thereafter, pursuant to the PWTA. The lessor shall also provide copies of those items listed in Section 10.D. to a new lessee of a rental unit on the property.

SECTION 11. Right of Entry:

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

SECTION 13. Fees:

The fees to be paid to the Ocean County Health Department shall be as follows:

- A. For filing of an application and design plan for the issuance of a permit to locate and

- construct an individual sewage disposal system with one (1) inspection.
- (1) Pressure Dosing System \$200.00
- (2) Other Systems \$160.00
- B. For filing of an application and design plan a permit to locate and construct a well with one (1) inspection. \$100.00
- C. For filing of an application and design plan for the issuance of a permit to repair an individual sewage disposal system with one (1) inspection. \$100.00
- D. For each re-inspection of a well or individual sewage disposal system caused by the failure of the permittee to locate, construct, alter or repair the same in accordance with the terms of the permit issued or the requirements and standards set forth and incorporated in this Ordinance. \$50.00
- E. For certification of water sample analysis by the Ocean County Health Department. \$50.00
- F. For re-evaluation and certifications of water analysis previously reviewed by the Ocean County Health Department. \$50.00
- G. For each review of a subdivision or site plan. \$125.00
- H. For any on-site witnessing of work relating to individual sewage disposal systems and wells not covered above. Based on rate per hour. \$35.00
- I. For filing a modification or change to the application or design plan for well or individual sewage disposal system. \$75.00
- J. For renewal of a permit which has expired under Section 2 C or 3 C of this Ordinance. A renewal permit shall be valid for a period of one (1) calendar year from the date of expiration of the applicant's prior permit. \$75.00 per year
- K. For review and verification of properties not requiring compliance with this ordinance. \$60.00
- L. For filing a permit to abandon a septic tank with one (1) inspection. \$60.00
- M. For research for possible site history/contamination on Ocean County properties \$50.00

SECTION 14. 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 15. 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 One Hundred (\$100.00) Dollars and nor more than One Thousand (\$1,000.00) Dollars for each offense.

B. Each and every day in which a violation of any of the provisions of this Ordinance exists shall constitute a separate offense.

C. The court may also award counsel fees to the Ocean County Board of Health in the enforcement of this ordinance.

SECTION 16. Effective Date of Ordinance,

This Ordinance shall take effect ninety (90) days after its adoption and publication by the Ocean County Board of Health pursuant to law and after its approval by the Commissioner of Environmental Protection.

SECTION 17. Modification of Ordinance

This Ordinance modifies and repeals all prior Ordinances adopted by the Ocean County Board of Health pertaining to the installation and testing of wells and individual sewage disposal systems including, but not limited to, those Ordinances adopted by the Ocean County Board of Health on May 6, 1987, June 6, 1990, September 1, 1994, and March 21, 2005.