



Prepared by: Des Moines County Attorney's Office, Burlington, Iowa 52601

(319)753-8209

### **ORDINANCE #38**

#### **Amending Original Ordinance adopted February 23, 1999**

An ordinance to adopt by reference a complete water well and water supply code regulating and establishing uniform minimum standards and methods for well construction and reconstruction for nonpublic water supply wells.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF DES MOINES COUNTY, IOWA:

SECTION 1. Short Title. This ordinance shall be known as "The Des Moines County, Iowa, Nonpublic Water Well Code", and may be cited as such, and will be referred to herein as this ordinance.

SECTION 2. Adoption of State Standards. Pursuant to public notice and public hearing, as required by law, the rules and regulations promulgated by the Iowa Department of Natural Resources for public and nonpublic water wells and published in Sections 567 Chapters 38 and 49 (455B) of the Iowa Administrative Code, are hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

An official copy of the aforementioned rules and regulations from the Iowa Administrative Code, and a certified copy of this ordinance are on file in the office of the Des Moines County Auditor.

SECTION 3. Amendments, Modifications, Additions and Deletions to the rules and regulations of the Iowa Department of Natural Resources for nonpublic water wells.

A. **DEFINITIONS.** For the purpose of these rules, certain words are hereby defined. Words used in the past or present tense shall include the future and conversely; and singular number shall include plural and conversely; the words "shall" and "will" are mandatory and "may" and "should" are permissive; the masculine, feminine and neuter is included in any circumstance.

1. "Health Department": Des Moines County Health Department and their approved rules.
2. "Health Officers": Means the Administrator of the Des Moines County Health Unit or his/her authorized representative.
3. "Person": means any person, firm, association, organization, partnership, business trust, corporation, company, trustee, syndicate, club, institution,

agency, or entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

4. "Administrative Authority": means the Des Moines County Health Department or the agency charged with administration and enforcement of this ordinance.

## **B. PERMITS**

1. No person shall begin construction or major reconstruction of any nonpublic supply system or well for any purpose within Des Moines County, without first obtaining a permit as provided herein.
2. A permit is necessary to construct or make a major repair to any nonpublic water supply system or well. An applicant must file an application with the health officer stating therein the owner's name, the correct street address, section and township, the type of system desired with other pertinent information as may be required. A permit fee set by the administrative authority shall be required.
3. Upon approval of the application by the health officer, a nonpublic water supply system or well permit will be issued.
4. Permits shall expire and have no further validity if the construction or reconstruction is uncompleted within a period of twelve (12) months from the date of issuance.
5. No non-public water supply system or well shall be covered or so constructed as to prevent in any way a thorough final inspection and periodic monitoring by the health officer.
6. Permits shall be available during the entire construction period. Contractors are required to verify the issuance of a permit prior to construction.
7. Water system permits are required by some governmental entities. No county permit will be approved until all other rules and regulations are met.
8. A well log and well log sketch signed by the well driller and a pump and equipment installation report signed by the pump and equipment installer, shall be submitted to the health officer. Failure to comply with this requirement may result in the withholding of final approval of any nonpublic water supply system or well construction.
9. During the installation if it is found necessary to make any substantial change from the site plan or well location on which a permit was issued. Permission must be obtained in writing from the health officer, and "as built" plans shall be submitted upon completion of the installation.
10. "As built" plans, nonpublic well construction reports, and/or water well pump and equipment installation reports shall also be submitted to the health officer upon completion if requested by the health officer.
11. Any well installed under the administrative authority for which final approval has been withheld by the health officer is not to be connected to a structure or placed into service until approval has been granted.

### **C. VARIANCES**

1. Variances to these rules may be granted by the administrative authority. A person may request a variance provided sufficient information is presented to substantiate the need and propriety of such a variance. Variances shall be requested in writing, and all decisions regarding such variances shall be issued in writing with sufficient copies to all concerned.

### **D. ENFORCEMENT AND PENALTIES**

1. Enforcement. It shall be the duty of the County Health Director or Designee, with the aid of the County Attorney and County Sheriff as necessary, to enforce the provisions of this ordinance.
2. Determination of Violation. When it has been determined that a violation has occurred, the County health Director shall notify the owner of the property in writing, indicating the nature of and consequences for the violation.
  - Any individual charges with a violation of this ordinance shall have the opportunity to submit evidence that would prove that the initial determination of the Director was in error. If contested by the Director, an appeal may be filed with the County Board of Supervisors.
  - If the activity involved in the violation continues unabated after notification has been provided to the property owner, the Administrator shall direct the proper authorities to issue a stop work order to prevent the continuance of any use or construction activity deemed to be in violation of this ordinance.
3. Penalties for Violation.
  - The failure to apply for and obtain the necessary permit to constructing, erecting, excavating, enlarging, moving, altering or reconstructing a well shall constitute a violation.
  - In any instance where a person or firm knowingly disobeys, resists, or refuses to comply with the enforcement of this ordinance following a determination of violation, that person or firm shall upon conviction be fined not more than one hundred (100) dollars, or be imprisoned for not more than thirty (30) days for each offense.
  - Each day that a violation continues to exist shall constitute a separate offense. This shall not be construed as applying to partially constructed wells where construction ceased with appropriate safety measures in place, as required, following notification of violation.

SECTION 4. Repeal. Des Moines Ordinance #12, all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. Severability Clause. If any section, provision or part of this ordinance should be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 6. The ordinance shall be in effect after its final passage, approval and publication by law.

DES MOINES COUNTY ORDINANCE #38 IN ITS ENTIRETY, is hereby amended, approved, and adopted this 22<sup>nd</sup> day of March, 2022.

DES MOINES COUNTY BOARD OF SUPERVISORS

Jim Cary  
Jim Cary, Chair

Shane McCampbell  
Shane McCampbell, Vice-Chair

Tom Broeker  
Tom Broeker, Member

ATTEST:  
Terri Johnson  
Terri Johnson, Des Moines County Auditor

APPROVED

✓ MAR 15 2022 Shane McCampbell  
BOARD OF SUPERVISORS

APPROVED

✓ MAR 22 2022 Shane McCampbell  
BOARD OF SUPERVISORS

~~Approved by DES MOINES COUNTY BOARD OF HEALTH on \_\_\_\_\_ day of \_\_\_\_\_, 2022~~

~~\_\_\_\_\_  
Chair  
Des Moines County Board of Health~~