



Adopted Revisions to the Missoula City-County Health Code October 18, 2013

On Thursday, October 17, 2013, the Health Board held a public hearing and adopted changes to the Health Code. They amended two sections: Variances and Regulation 5, Drinking Water Well Protection. The revisions are shown below. Underlined text represents additions and strike-outs represent deletions.

MISSOULA CITY-COUNTY HEALTH CODE (ADMINISTRATIVE SECTION)

6. VARIANCES.

(E) Criteria for variance. The Board may approve a variance only if it finds all of the following:

(1) The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;

~~Special circumstances exist which are:~~

~~(a) peculiar to the applicant's property or situation; and~~

~~(b) not caused by the applicant's action or inaction; and~~

(2) Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant; Substantial undue hardship would result from requiring strict compliance to the provision or provisions from which the variance is sought by:

~~(a) creating an unreasonable financial burden on the applicant; and~~

~~(b) depriving the applicant of rights commonly enjoyed by other persons similarly situated under the terms of this Code.~~

(3) No alternatives that comply with the requirement are reasonably feasible; and

(4) The variance requested is not more than the minimum needed to address the extraordinary conditions.

(34) Additional criteria are required for a variance from Regulation 1. The Board may approve a variance from Regulation 1 only if it finds, in addition to all the elements required in section 6 (E)(1) and (2) above, that granting the variance will not:

(a) contaminate any actual or potential drinking water supply;

(b) cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;

(c) cause a public health hazard by being accessible to persons or animals;

- (d)violate any law or regulation governing water pollution or wastewater treatment and disposal except for the rule that the variance is requested from;
- (e)pollute or contaminate state waters, in violation of 75-5-605, MCA;
- (f) degrade state waters unless authorized pursuant to 75-5-303, MCA; or
- (g)cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.

REGULATION 5: ~~DRINKING~~ WATER WELL PROTECTION

1. GENERAL.

A. Purpose. The purpose of this regulation is to protect the quality and potability of water for public water supplies and domestic uses by tracking and verifying the location of new wells and to ensure compliance with 50-2-116 MCA, Missoula City-County Health Code Regulation 1, ARM 36.21.638, ARM 17.36.323, and the Missoula Municipal Code, Section 13.26.090.

B. Authority. Authority for this regulation is provided in 50-2-116, MCA and 76-4-108 MCA.

2. DEFINITIONS.

Absorption System: a secondary treatment system including conventional drainfields, alternative systems, and experimental systems used for subsurface disposal of pre-treated waste effluent.

Community water supply system: any public water supply system which serves at least ten service connections used by year round residents or regularly serves at least 25 year-round residents.

Contaminant: a biological, chemical, physical, or radiological constituent in water that is or may become injurious to public health, safety, welfare, or to the environment.

~~Contamination: an impairment to the quality of water to a degree that creates or may create a hazard to public health through poisoning or through spread of disease or otherwise affects the aesthetic quality of the groundwater.~~

Department: the Missoula City-County Health Department.

DEQ: the Department of Environmental Quality.

~~Drainfield: that part of an on-site sewage system that provides for the infiltration of sewage below the ground surface.~~

Groundwater: the water in the zone of saturation that fills all pore spaces of the subsurface geologic material.

~~Maintenance: includes, but is not limited to, repair or replacement of a pump, well screen, pressure tank, piping, wiring, controls, or treatment device that is part of a well or water system.~~

Potable water: water that is free of coliform bacteria and contaminants in concentrations that may cause disease or harmful physiological effects, is safe for human consumption and meets the State drinking water standards set forth in MCA 75-6-201 and ARM 17.30.100.

Public water supply system: a system for the provision of water for human consumption from any community well or other water supply that is designed to serve or serves 25 or more persons daily at least 60 days out of the calendar year or has at least 15 service connections.

~~Test or exploratory hole: an excavation, or direct push used for determining the nature of underground geological or hydrological conditions, by direct observation, or by any other means.~~

Well isolation zone: means the area within a 100-foot radius of a water well.

Wells:

1) ~~"Well" means~~ an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and includes any related system(s) of pumps, pipes, controls, reservoirs, or mechanical devices used for the purpose(s) of: location, diversion, artificial recharge, acquisition of groundwater or for any other similar purpose.

"Well" Wells includes, but ~~are~~ is not limited to:

- a) Extraction well: ~~any~~ well used to extract water for treatment or other processes.
 - b) Heat exchange well: a well used for extracting ~~and or~~ injecting groundwater for heating or air conditioning purposes.
 - c) Industrial well: a well that is used to supply water for industrial processes, fire protection, or similar nonpotable uses.
 - d) Irrigation well: a well that is used to provide water for plants, livestock, or other agricultural processes.
 - e) Test well: a well that is used to obtain information on groundwater quantity, suitability as a drinking water source, or aquifer characteristics for the purpose of designing or operating a water supply well.
 - f) Water supply well: a well that is used to provide potable water for drinking or domestic purposes.
- 2) "Well" Wells, for the purpose of this regulation does not include:
- a) A monitoring well ~~Monitoring wells~~ used solely to detect the presence of a contaminant in groundwater or soil, or monitor groundwater levels;
 - b) An oil or gas well ~~Oil and gas wells~~ constructed under the jurisdiction of ~~the Montana Department of Environmental Quality (MDEQ)~~, except a well that is those wells converted to use as well covered by this regulation water wells; ~~or~~
 - c) Wells A well used solely for the purpose of:
 - i) Dewatering ~~wells less than twenty five (25) feet in depth~~ during construction,
 - ii) Stabilizing hillsides or earth embankments;
 - d) The following excavations:
 - i) A hole or excavation ~~Holes or excavations~~ for ~~drainfield~~ an absorption system soil evaluation tests,
 - ii) A drill hole ~~Drill holes~~ for seismic exploration where ~~such drill holes are~~ the drill hole is less than twenty-five (25) feet in depth,
 - iii) ~~Other~~ A geotechnical exploratory borings.

3. PERMIT REQUIRED

A) A person may not construct a well within Missoula County without first obtaining a permit from the Department.

B) Application for a permit must be made by the property owner(s) or his/her authorized representative on forms provided by the Department. The application must include:

- 1) Name and address of owner and applicant if different, and a complete legal description and address of the property on which construction of the well is proposed.
- 2) Either of the following:
 - a) A lot layout approved by the DEQ as part of a Certificate of Subdivision Approval, showing the proposed building location and any deviations or changes to the approved layout; or
 - b) A site plan showing the location of:
 - i) The proposed well
 - ii) Existing and proposed sewage facilities
 - iii) Existing and proposed buildings
 - iv) Property lines and easements
 - v) Any flood plain or surface water within 100' of proposed well location
 - vi) Any applicable non-degradation mixing zones; and
 - vii) Any applicable well isolation zones.
- 3) The intended use of the well. Applications for non-drinking water wells must include the diameter of the well.
- 4) The appropriate fee established by the Board.
- 5) If applicable, written and recorded authorization allowing a well isolation zone to cross onto neighboring private property.

C) The Department may issue a permit for a well after all the requirements of this section have been met.

D) A permit expires if the well for which the permit was issued is not installed, inspected, and approved by the Department within one year after issuance.

E) A permit may be extended one time by the Department for one year if:

- 1) the permit holder requests an extension from the Department prior to the expiration of the permit; and
- 2) the requirements of the permit and this regulation are met; and
- 3) any differences in permit application fees are paid in full.

F) If a well is constructed in the approved location and fails to produce adequate water:

- 1) the driller must notify the Department; and
- 2) a new site plan must be submitted showing both well locations unless proof that the original well has been abandoned is submitted to the Department; and
- 3) a new permit and fees may be required.

G) The Department shall charge a fee three times the permit application fee when the construction of a well starts prior to a valid permit being issued. This provision shall become effective 90 days following the effective date of this regulation.

4. SITING REQUIREMENTS

A) A person may not construct a ~~water supply~~ well where the location of that well would cause a violation of:

- 1) ~~A violation of an~~ An approved Certificate of Subdivision Approval;
- 2) ~~A violation of an~~ An approved location for a sewage treatment or disposal system;
- 3) The requirements of Regulation 1.

B) The property owner has the ultimate responsibility to determine the location of the well prior to construction. The owner or driller may request a site inspection by the Department prior to drilling to confirm that the proposed well location meets the requirements of this rule. The Department may charge a fee to be determined by the Board to cover the cost of an additional site inspection.

C) If a parcel has a Certificate of Subdivision Approval all wells must be constructed in the locations shown on the approved site plan. If there is no Certificate of Subdivision Approval for the parcel, the location of the well(s) must conform to the minimum setback requirements shown in Table 1. In addition, wells should remain 100 feet from surface water and 10 feet from any floodplain.

D) Wells that cannot meet the requirements of Table 1 must be sited and constructed to provide the most setback distances practicable. Wells that cannot meet the minimum setback requirements in ARM 36.21.638 must receive approval from the Montana Board of Water Well Contractors pursuant to ARM 36.21.680 before a permit may be issued.

Table 1.

| Well Use | Absorption Systems | Septic Tanks & other components* | Sealed Sewer Lines |
|----------------------------------|--------------------|----------------------------------|--------------------|
| Residential Drinking Water | 100 | 50 | 10 |
| Community or Public Water Supply | 100 | 100 | 100 |
| Extraction | 100 | 50 | 10 |
| Heat Exchange | 100 | 50 | 10 |
| Industrial | 100 | 50 | 10 |
| Irrigation | 100 | 50 | 10 |
| Testing | 100 | 50 | 10 |

*Other components include sewer lines without water tight connections, grease traps, dosing tanks, pumping chambers, intermittent and recirculating filters, package plants and evapotranspiration systems.

E) A proposed well isolation zone may not extend onto adjacent private property without written and recorded authorization from the adjacent property owner. This provision does not apply to proposed wells on parcels created before October 1, 2013 or on parcels created as part of a Sanitation in Subdivision application submitted to the Department before October 1, 2013.

5. INSPECTIONS

A) Prior to being used, all wells require a final inspection [of the well location](#) by the Department unless specific permission has been granted by the Department.

[B\)](#) When final approval is withheld, a written notice of deficiencies and required corrective action must be provided to the applicant within ten (10) business days of the inspection. The applicant or licensed well driller must notify the Department upon correction of any and all deficiencies. A

reinspection must be made to confirm the deficiencies have been corrected and the system is in compliance with these regulations.

~~B)C)~~ The applicant or licensed well driller must notify the Department that a well is ready for inspection within two (2) business days of completion of the well.

~~C)D)~~ The applicant or licensed well driller need not be present during the inspection.

~~D)E)~~ A site inspection may be required by the Department or requested by the applicant before construction of a well commences to verify the ~~correct~~ location of the well meets the requirements of this regulation. A fee established by the Board may be required for a site inspection conducted prior to construction of a well.

~~E)F)~~ Acceptance of a permit by the applicant confers upon the Department the authority to access the well construction site at reasonable times for the purpose of making examinations and investigations to determine compliance with these Regulations.