

9999.00 WELL AND WATER ORDINANCE

9999.01 Purpose

The purpose of this Ordinance is to protect and preserve public health and to provide wells that are able to supply long term sustainable water yields of at least four (4) gallons per minute over a four (4) hour period. Further, to provide wells that are safe for drinking and meet minimum testing requirements for potable water.

9999.02 Authority

The Town of Brookline, NH, has, in the interest of and for the preservation of the public health, and to provide for sustainable and safe wells, duly made and adopted, the following Ordinance pursuant to, and in accordance with, the authority granted by RSA Sections 674:51 and RSA 155-A:3.

9999.03 Definitions

Artesian Well: The word artesian is commonly used to refer to modern drilled wells, but a true positive pressure artesian well is one where the water is under pressure in the ground (due to geologic conditions) and flows above the ground surface.

Bored Well: means a bored well is constructed using an earth moving auger and is designed to reach water in the loose, unconsolidated material above the bedrock.

Drilled Well: means a water-bearing hole in ground (typically 6" in diameter for residential wells) that is drilled using a bit and continues down through bedrock to reach water bearing fractures or underground aquifers. The well will include casing to prevent the entrance of surface water or debris from entering the well.

Driven or Point Well: means a driven well is typically less than 50' deep, used in an area where the sand or gravel above bedrock holds water which can be accessed by a special pipe with slots or holes and a suction pump.

Dug Well or Shallow Well: means a water-bearing hole in the ground surrounded by a concrete tile, stones or brick. Generally, less than 25 feet deep. Dug wells can provide reliable water supplies but are more prone to seasonal fluctuations in both quantity and quality of water.

Dwelling Unit. means a single unit providing complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking and sanitation.

Hydrogeological Study. means studies that meet the standards set forth by NHEnv-Dw 400 and any future amendment thereto, as well as the requirements under section 9999.04 of this ordinance.

New Construction. means any proposed residential dwelling unit which has not been granted a Certificate of Occupancy. Additionally, any commercial structure that uses water which has not been granted a Certificate of Occupancy.

Potable Water: means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the standards established by the New Hampshire Department of Environmental Services or U.S. EPA for the contaminants listed in Section 9999.07

October 4, 2021

Pounded (or Cable Tool) Well: With this method of well drilling a heavy bit is dropped repeatedly into the well hole, breaking up the material which is then bailed out of the well. This method is done using a cable tool and is also referred to as percussion.

Well: means an Artesian Well, Bored Well, Drilled Well, Driven or Point Well, Dug Well or Shallow Well, Pounded (or Cable Tool) Well as defined in section 9999.03 of this ordinance or other source of water to be used for the purpose of supplying potable water within the Town of Brookline, NH.

Water System. Pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use whether or not inside a building.

Water well construction: means and includes the industry, procedure, and all operations engaged in by any person, full time or part time, for compensation or otherwise, to obtain water from a well by drilling, digging, developing including hydrofracturing, or other method, for any purpose or use.

Water Well Contractor: means a person who engages in water well construction.

9999.04 Building Permit Application Prerequisites

1. No building permit shall be issued for any new construction until the following items have been completed by the applicant and submitted to the Building Inspector.
 - a. A hydrogeological study. The following items shall be included as part of the study:
 - i. a review of surficial and bedrock geologic maps at minimum scale of 1:24,000 as available; and
 - ii. a review of publicly available data for well yields within a 500-foot radius of the proposed development boundary if no more than two lots are proposed. If greater than two lots are proposed, the well survey radius shall extend to 1,000 feet; and
 - iii. a fracture trace study (i.e., a photo-lineament study) at a representative scale; and
 - iv. a report from a licensed professional hydrogeologist registered in the state of New Hampshire assessing the potential for adequate water supply for each proposed well and potential impacts on wells within the established radius in 9999.20 1. a. ii, above.
 - b. Before a building permit may be issued by the Building Inspector, a well shall be installed by a NH licensed Well Water Contractor and tested to demonstrate compliance with the yield standards set forth in Section 9999.05. A well completion report meeting the requirements of RSA 482-B:10 I. (a) through (w) from a NH Well Water Board licensed Well Water Contractor which demonstrates compliance with the yield standards shall be submitted to the Building Inspector.

9999.05 Well Yield Requirements for New Construction

1. Wells supplying new construction, shall, at a minimum, meet the sustained yield requirements in 9999.05 of this Ordinance. Commercial Structures may be required to meet higher yield standards based on the anticipated use and/or occupancy (i.e. Restaurants, Multi-Tenant Commercial structures, etc.) as determined by the Town of Brookline Building Inspector.

October 4, 2021

2. Every well shall be pump tested regardless of depth to determine sustained yield. The sustained yield shall not be less than four (4) gallons per minute over a four (4) hour period. In all cases the pump test shall be completed using a submersible pump. Groundwater level measurements shall be recorded immediately before the start of the pump test for static groundwater level, and at least once every thirty (30) minutes during the pump test. In addition, the static groundwater level shall be measured within twenty-four (24) hours after the pump test and shall demonstrate water level recovery after the pump test to at least ninety percent (90%) of the pretest level. All results from pump testing shall be certified by a NH Well Water Board licensed Well Water Contractor and so evidenced on a well completion report meeting the requirements of RSA 482-B:10 I. (a) through (w) provided to the building department.

9999.06 Well and Water System Standards

1. Every well shall supply potable water according to RSA 155-A and International Building Code (International Plumbing Code 602.02)
2. Every well shall be designed and constructed to satisfy all requirements set forth in pertinent State of New Hampshire laws, Department of Environmental Services Drinking Water and Groundwater Bureau Standards and Regulations, as well as the New Hampshire Water Well Board, laws and regulations as they exist, may be established, or may be amended in the future.
3. Every well's pump sizing, drop tube construction, and storage tank capacity shall be appropriate for the well drilled, anticipated occupancy and use of the well, and shall take into consideration periods of moderate to severe drought.
4. Every well shall set the depth of the pump to not less than equidistant between the static water level and the bottom of the well.
5. The Well Water Contractor licensed under RSA 482-B shall observe reasonable sanitary measures and precautions in the performance of Well Water Construction to prevent pollution or contamination of the well.
6. For new construction, there shall be a separate well for each individual lot except in the case of water systems operating under a New Hampshire State Public Utilities Commission franchise, private water systems owned by a third-party management company, homeowner's association or wells serving commercial structures.
7. Site selection for wells shall be in accordance with RSA 482-B and associated rules We 600 and RSA 485-A and associated rules Env-Wq 1000.
8. Burial of tree stumps, brush, and or construction materials shall not be located within the protective well radius.

Commented [A1]: Committee and Planning Board Discussion

9999.07 Private Water Testing Requirements

1. Analysis of a water sample shall be conducted by a New Hampshire accredited laboratory. This test shall include, but not be limited to, the DES standards outlined in Suggested Water Quality Testing for Private Wells DWGB-2-1 2020, and any updates thereto.

October 4, 2021

9999.08 Certificates of Occupancy Prerequisites

1. No Certificate of Occupancy shall be issued until all the provisions of this ordinance have been met or duly waived by the Building Inspector in accordance with Section 9999.09 of this ordinance.
2. No Certificate of Occupancy shall be issued until a water quality test issued by a New Hampshire accredited laboratory demonstrating effective mitigation to the below referenced standards has been received by the Building Department.
 - a. Water Quality tests shall demonstrate all contaminants identified under Testing Requirements, Section 9999.07 have been met or mitigated to the prevailing NH DES Maximum Contaminant Level (MCL), or with respect to Radon, NH DES recommended level by the installation of a point of entry water treatment system. Note: Backwash from water treatment systems shall not be discharged into the dwelling's sewage disposal system unless the sewage system design is sized to accommodate the additional flow.
3. No Certificate of Occupancy shall be issued until a completed well completion report including drilling logs by the well driller or his agent not later than the time of requesting a Certificate of Occupancy has been received by the Building Department.

9999.09 Waivers

1. The Town of Brookline Building Inspector is the waiver authority for this ordinance. Waivers may only be granted in the following cases:
 - a. The expansion of a pre-existing use where the expansion has a limited impact on water usage.
 - b. The Building Inspector may waive the requirement of a Hydrogeological Study if the proposed project is located on a parcel that has been included in a hydrogeological study conducted within the last 5 (five) years that meets all the requirements of the Hydrogeological Study outlined in section 1. a. i-iv above and the Building Inspector finds that there has not been any changes in the surrounding area (i.e., new development) that would warrant an additional study
 - c. The development has met the benchmarks outlined in the conditions defining Active and Substantial Completion.
2. In considering waivers the Building Inspector shall consider, as a minimum:
 - a. Whether the waiver adequately protects public health; and
 - b. Whether the waiver adequately protects public safety.

Commented [A2]: Committee and Planning Board Discussion

9999.10 Enforcement

These regulations shall be enforced by the Selectboard or its duly authorized representatives.

9999.11 Conflict

If any provision of this Section conflicts with any statute, ordinance or other regulation, the provision that imposes the greater restriction or the higher standard shall govern.

October 4, 2021

9999.12 Severability

If any section, provision, portion, clause or phrase of these regulations shall be declared invalid or unconstitutional, it shall not impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

9999.13 Landowner's Acknowledgement

It shall be the obligation of the landowner to adhere to the obligations, requirements, and standards of Section 9999.00, *et seq.*, and, furthermore, nothing herein alleviates the landowner from any further obligation, requirements, or standards set forth pursuant to state and federal law relative to wells and water.

9999.14 Effective Date

This ordinance shall be effective immediately after an affirmative vote at Town Meeting 2022.

October 4, 2021