

## Development Specialist

### History, Purpose and Accomplishments:

The position of Development Specialist first began approximately seven years ago, with the Rural Water Association of Utah obtaining a one year contract for about two years with the Division of Drinking Water, followed by a five year contract. This five year contract expires at the end of February 2018. The purpose of the contract and position is to meet with and convince County officials of their role in water issues. Education of Source Protection, proper source development, construction standards, septic tank placement, and overall development standards are part of what the Specialist trains the county and health department officials on. Much of the focus is on very small developments, sub-divisions, etc. that are not large enough to qualify as Public Systems.

With the assistance of District Engineers, I have developed what we are calling a “Non-Public System Rule.” I have also developed a “shared well agreement” and “right-of-way agreement.” These have been adopted, with some small variations, by the Southwest Utah Health Department, Tri County Health Department, Utah County Health Department. I am almost sure that the Central Utah Health Department will also adopt it within the next month or two. This will make it so there are 15 counties covered by this Non-Public System Rule.

Additionally, I have been working closely with the Health Departments of Wasatch, Summit, Davis, Weber and Morgan counties. All of these express to me that they are very interested in getting the rule adopted. I have been working with District Engineer, Scott Hacking, and we plan to get the rule adopted in the Southeast Utah Health Department shortly after they have a new Director in place.

The Health Departments of Utah County and Southwest are working on making some amendments to their rule. This increases the need for ongoing training and assistance. I have been quite busy working with the Southwest Health Department and the County Planners within that area to stress the need to enforce the rule. There has been a fair amount of development take place where the rule has not been followed. Even after we get this adopted in all of the counties and health departments, there will be an ongoing need for training and assistance.

# Central Utah Public Health Department PROPOSED RULES FOR NON-PUBLIC WATER SYSTEMS (1-7 connections)

Draft Proposed Rule – January 25, 2017

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## 2. PURPOSE

It is the purpose of these rules to regulate non-public water systems within the Central Utah Public Health Department's jurisdiction to:

- 2.1 protect and promote the public health, safety, and welfare,
- 2.2 prevent damage to property,
- 2.3 prevent the spread of disease,
- 2.4 prevent the creation of nuisances, and
- 2.5 prevent water pollution.

### 3. DEFINITIONS

For the purpose of these rules and unless defined in other sections, the terms, phrases, and words shall have the following meanings:

- 3.1 Aquifer: An underground geologic formation that contains and transmits groundwater.
- 3.2 Commercial and Industrial Water Systems: Any new non-residential water system, such as any system serving a commercial or industrial business.
- 3.3 Concentrated Sources of Pollution: Pollution sources that include, but are not limited to, on-site wastewater systems, drain field systems, drain lines, ordinary sewer lines, garbage dumps, pit privies, pesticide or hazardous waste storage, and feedlots.
- 3.4 Department: The Central Utah Public Health Department.
- 3.5 Director: The Director/Health Officer of the Central Utah Public Health Department or authorized representative.
- 3.6 Grouted Well: A well that has the following construction:
  - A. the annular space between the drilled hole and the well casing shall be grouted or otherwise sealed to eliminate water of questionable quality from seeping alongside the casing into the water-bearing aquifer. Such grouting shall be at least two inches thick, and extend a minimum of 100 feet below the surface, and
  - B. the well casing shall extend to an elevation not less than 18 inches above the surrounding ground.
- 3.7 Non-public Water System: Any potable water system that is not subject to regulation by the Utah Drinking Water Board (a non-public water system would serve less than 25 people, or typically fewer than 8 connections).
  - i. Delivery of drinking water, such as by a single well, to a portion of a platted subdivision or a portion of a contiguous development, either of which is under the same ownership or control, shall be considered a single drinking water system; and
  - ii. A platted subdivision or other contiguous development, under the same ownership or control, is considered to have the corresponding number of connections as there are lots;
- 3.8 Owner: as pertaining to real property is any person who alone, jointly, or severally with others:

- A. has legal title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof, or
  - B. has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, lessee, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- 3.9 Person: Any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the state or its departments, institution, bureau, agency, county, city, political subdivision, or any legal entity recognized by law.
- 3.10 Pollution: Pollution means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, or such discharge of any liquid, gaseous, or solid substance into any waters of the state as will create a nuisance or render such waters harmful, detrimental or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- 3.11 Potable Water: Water which is satisfactory for drinking, culinary, and domestic purposes.
- 3.12 Protection Buffer Area: A protective buffer area around a well or spring in which certain pollution sources are restricted or prohibited in order to minimize the risk of accidental contamination of a well or a spring. Protection buffer areas established under this rule are not considered “Drinking Water Source Protection (DWSP) zones. DWSP zones are governed by the Division of Drinking Water under UAC R309-600, and are subject to additional requirements described in R309-600. A drinking water source that may become part of a public water system in the future must comply with UAC R309-600, or risk being unapprovable as a public drinking water source.
- 3.13 Public Drinking Water System: A water system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:
- (a) Has at least 15 service connections,
    - i. Delivery of drinking water, such as by a single well, to a portion of a platted subdivision or a portion of a contiguous development, either of which is under the same ownership or control, shall be considered a single drinking water system; and
    - ii. A platted subdivision or other contiguous development, under the same ownership or control, is considered to have the corresponding number of connections as there are lots;  
**OR**
  - (b) Serves an average of at least 25 individuals daily at least 60 days out of the year.
  - (c) A ratio of 3.13 persons per connection shall be used to calculate the population served unless

more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census. Therefore, notwithstanding the above stated threshold of 15 service connections, a proposed drinking water system consisting of 8 or more service connections shall be deemed to serve 25 people and consequently be subject to the State of Utah Rules for Public Drinking Water Systems. This ratio shall only be used to determine whether a proposed water system is considered a public water system. Any person or entity may challenge this provision by submitting documentation to the Director showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above.

- 3.14 Satisfactory Bacteriologic Sample: A water sample that tests negative for coliform organisms, as tested by a laboratory certified by the Utah State Department of Health.
- 3.15 On-site Wastewater System Permit: A permit to construct an onsite wastewater treatment system issued by the Central Utah Public Health Department.
- 3.16 Shall: The word "shall" is a mandatory term.
- 3.17 Spring: A water source issuing from the ground that is fed by precipitation that travels from a higher elevation through natural soil.
- 3.18 Ungouted Well: A well that does not meet the criteria for a grouted well as defined in definition 3.5.
- 3.19 Well: Any excavation that is drilled, cored, bored, driven, dug, fitted, or otherwise constructed and the intended use of the excavation is to acquire ground water.

#### **4. GENERAL POWERS AND DUTIES**

The Department shall be responsible for the administration of these rules and shall:

- 4.1 Require the submission of reports, plans, and specifications for any use of non-public potable water systems as necessary to implement the provisions, requirements, and standards of these rules.
- 4.2 Issue permits and charge fees as necessary to implement the provisions, requirements, and standards of these rules.
- 4.3 Make inspections of public or private property and issue orders as necessary to affect the purposes of these rules.
- 4.4 Require the owner to take samples and make analysis of soils, waters, and other materials as necessary to affect the purposes of these rules.
- 4.5 Coordinate with local jurisdictions to avoid conflicts. Local ordinances may be more restrictive than these rules, in which case the more restrictive rules shall apply. The local jurisdiction shall

be responsible for administering their own rules; however the Department shall coordinate with the local jurisdictions as much as possible.

## 5. APPROVED POTABLE WATER SUPPLY REQUIRED

No person shall occupy or permit the occupancy of any building within the jurisdiction of the Central Utah Public Health Department, and no on-site wastewater system permit shall be issued by the Department for any building:

- 5.1 Unless the building is to be connected to a public water system, or
- 5.2 unless the building is to be connected to a non-public water system that is in compliance with the rules stated herein, or
- 5.3 unless the building is to be serviced by water hauling in conformance with Section 6.

## 6. WATER HAULING

In general, water hauling is not an acceptable permanent method for culinary water supply for full-time use. However, water hauling may be allowed under the following circumstances, unless otherwise prohibited by the local jurisdiction:

- 6.1 Recreational Properties. Water hauling will be allowed for a single recreational property that is seasonal in nature and/or does not have year-round road access.
- 6.2 Emergencies. Water hauling may be approved by the Director as necessary as a temporary means of providing potable water in an emergency.
- 6.3 Large Lots. Water hauling may be allowed to serve a subdivision if the proposed lots are 40 acres or larger in size. Such a proposal for water hauling must be submitted to and approved by the Director and the local jurisdiction.
- 6.4 Water Hauling for a Full-time Residence. Water hauling is discouraged for a full-time residence, but is allowed in cases where consumers could not otherwise be supplied with potable water. These situations shall be considered on a case-by-case basis in consultation with the local jurisdiction, City or County. Application shall be made with the Department detailing the justification for water hauling, with supporting documentation that a well or spring or other neighboring water supply is not a feasible water source for the property. Such documentation may consist of, but is not limited to, information from the Utah Division of Water Rights, the Utah Geological Survey, the Department of Agriculture, or other State or local agency, or other historical, geologic or hydrogeologic information supporting the conclusion that an on-site source of water (drilled well or developed spring) is not available.
- 6.5 Water Hauling Requirements.

Where allowed, water hauling shall comply with the following requirements, except that these requirements may be waived in an emergency:

- A. All water hauling shall comply with the procedures and requirements specified in the document "*Recommended Procedures for Hauling Culinary Water*", authored by the Division of Drinking Water and dated February 8, 1999, or as revised.
- B. A water storage capacity of at least 1,000 gallons in a tank that is approved for culinary water storage must be provided, in compliance with the plumbing code and building code as adopted by the State of Utah and/or the local jurisdiction.
- C. Water must be drawn from an established public water supply rated as "Approved" by the Utah Division of Drinking Water. Satisfactory proof of a water hauling contract or other water hauling capability from such an approved source shall be provided to the Department as part of the approval process.

## 7. APPLICATION AND APPROVAL PROCESS

- 7.1 For non-public water systems proposed to serve 1-3 connections, the information required in Section 9 shall be provided to the Department as part of the on-site wastewater system application form. After an on-site wastewater system permit has been issued, final approval of the system shall not be granted by the Department until a final inspection has been made and documentation has been submitted to the Department that the requirements of Section 9 have been met.
- 7.2 For non-public water systems proposed to serve 4-7 connections, the information required in Section 10 shall be submitted to the Department. The applicant shall also submit to the Department two sets of plans and specifications for the proposed water system, in accordance with the construction requirements of Section 11. Such plans shall be approved and stamped by a Professional Engineer licensed to practice in Utah. In the event that a water system has more than 7 connections, but is able to provide documentation that the system serves fewer than 25 persons and therefore is not subject to the Public Drinking Water requirements, the system will be required to meet the requirements of this rule and will be considered as a 4-7 connection system.
- 7.3 ***Potential regulation by the Utah Public Service Commission.*** The Public Service Commission (PSC) regulates public utilities in the State of Utah, and a non-public water system serving two or more connections in most cases will be a regulated utility subject to the authority of the PSC. Notwithstanding these rules, any non-public water system serving two or more connections shall make application to the PSC for either a Certificate of Public Convenience and Necessity or a Letter of Exemption. Documentation of PSC classification of the new non-public water system shall be submitted to the Department.

## 8. PROTECTION BUFFER AREAS AND SHARING AGREEMENTS

To ensure that potable ground water is protected from concentrated sources of chemical or biological pollution, minimum allowable separation distances between a well or spring and pollution sources are specified herein. In addition, the water supplier shall either own the protection buffer area and agree not to locate or permit concentrated sources of pollution within it; or, if the water supplier does not own the land in question, he shall obtain a land use agreement with the owner of the land by which the land owner agrees not to locate or permit concentrated sources of pollution within the protection buffer area. In all cases, said restriction(s) shall be binding on all heirs, successors, and assigns. Said land use agreement must be notarized and recorded with the appropriate county recorder. This applies to all wells and springs proposed to be used as a source of potable water, from a single connection up to 7 connections (eight or more connections are regulated separately by the Division of Drinking Water). For a well or spring that is proposed to serve two or more lots or residences, a shared well or shared spring agreement will be required as specified in Section 8.4.

- 8.1 A **grouted well** shall be protected from concentrated pollution sources for a distance of at least 100 horizontal feet from the well head. At the discretion of the Director, protective sewer lines that are specially constructed in a manner consistent with the State of Utah Rules for Public Drinking Water Systems (Administrative Code R309-515-6(4)) may be located within the protection buffer area no less than ten feet from the well head.
- 8.2 An **ungouted well** shall be protected from concentrated pollution sources for a distance of at least 200 horizontal feet from the well head. At the discretion of the Director, specially constructed sewer lines consistent with the State of Utah Rules for Public Drinking Water Systems (Administrative Code R309-515-6(4)) may be located within the protection buffer area no less than 100 feet from the well head.
- 8.3 For a **spring**, all land at elevations equal to or higher than and within 500 feet horizontally in all directions from the spring source shall be protected against concentrated sources of pollution. All land at an elevation lower than and within 100 horizontal feet to the spring source shall be protected against concentrated sources of pollution.
- 8.4 Water sources shared by 2 or more residences or lots must submit a shared well or shared spring agreement to the Dept. that has been signed, notarized, and recorded with the appropriate County. Easements for piping and access to the well/spring must also be provided. Guidelines for the shared well/spring use agreement are available from the Central Utah Public Health Department.

## 9. REQUIREMENTS FOR A NON-PUBLIC WATER SYSTEM SERVING ONE TO THREE CONNECTIONS

An on-site wastewater system permit shall not be issued until one of the requirements 9.1, 9.2, 9.3, or 9.4 following for the proposed water source has been met.



- 9.1 Public Water System. If the proposed source of potable water is a public water supply, then documentation that the public water system agrees to the connection shall be required as determined necessary by the Department.
- 9.2 Existing Non-public Water System. If the proposed source of potable water is an existing non-public water supply, the following information shall be provided to the Department and must receive a satisfactory review:
- A. Documentation that the owner(s) of the water system agrees to the connection, and also documentation of a shared well or shared spring agreement as described in Section 8.4.
  - B. documentation of sufficient water rights to supply the new connection, as issued by the Utah Division of Water Rights,
  - C. documentation that the system is able to reliably supply sufficient water quantity and water pressure to the new connection,
  - D. evidence that the water is of acceptable quality in accordance with Section 9.5 (A. and B.), and
  - E. evidence of a protection buffer area, as specified in Section 8.
- 9.3 New or Renovated Well or Spring. If the proposed source of potable water is a new or renovated private well or spring, the following information shall be provided to the Department and must receive a satisfactory review:
- A. Evidence of sufficient water rights, as issued by the Utah Division of Water Rights,
  - B. documentation that the system is able to reliably supply sufficient water quantity and water pressure to the new connection,
  - C. evidence that the water is of acceptable quality in accordance with Section 9.5 (A. and B.),
  - D. evidence of a protection buffer area for the well or spring as specified in Section 8,
  - E. a property map showing the site of the well or spring with the established protection buffer area, and
  - F. for two or more connections, a shared well or shared spring agreement as described in Section 8.4.
- 9.4 Water Hauling. If it is proposed to haul water as a water source, then documentation shall be provided to the Department that the requirements of Section 6 have been met.

9.5 Final Approval. Final approval for a constructed on-site wastewater system supplied by a well or spring source from a non-public water system shall not be granted by the Department until the following has been submitted and received a favorable review:

A. A chemical analysis of the well or spring water performed by a laboratory certified by the Utah State Department of Health. The Public Water System Maximum Contaminant Levels (MCL's) given below are for reference only and any water treatment needed to comply with these MCL's may be done voluntarily by the water system owner.

<u>Chemical</u>	<u>Maximum Contaminant Limit (mg/l)</u>
Arsenic .....	0.01
Nitrate (as N) .....	10.0
Sulfate** .....	1000 (500 for commercial use)
Total Dissolved Solids (TDS).....	2000 (1000 for commercial use)
Turbidity .....	5 NTU

\*\* Sulfate levels over 500 mg/l may cause gastric distress in some people.

B. acceptable results of a bacteriological sample taken from the water system, and

C. a copy of the "Report of Well Driller" (well log), if the water source is a well.

**10. REQUIREMENTS FOR A NON-PUBLIC WATER SYSTEM SERVING 4-7 CONNECTIONS**

The following information shall be provided to the Department and must receive a satisfactory review:

10.1 Evidence of sufficient water rights assigned to the water system, as issued by the Utah Division of Water Rights.

10.2 Evidence of a protection buffer area for the well or spring as specified in Section 8.

10.3 Evidence of a shared well or shared spring agreement as described in Section 8.4.

10.4 An initial chemical analysis of the water performed by a laboratory certified by the Utah State Department of Health that meets the requirements of Section 9.5.A.

10.5 A satisfactory bacteriological sample taken from the water system.

10.6 A copy of the "Report of Well Driller" (well log).

10.7 A property map showing the site of the well or spring with the established protection buffer area.

10.8 Plans and specifications for development and construction of the water system, or as-built drawings of the existing water system, in accordance with the Construction Standards of Sec.11.

The plans and specifications or as-built drawings must be prepared and stamped by a Utah-licensed Professional Engineer (P.E.).

## **11. CONSTRUCTION STANDARDS FOR NON-PUBLIC WATER SYSTEMS SERVING FROM 4 TO 7 CONNECTIONS**

11.1 Well Construction and Development. Construction and development requirements for wells serving 4-7 connections shall be as follows:

- A. Well casing material and thicknesses shall meet the minimum requirements of the State of Utah Rules for Public Drinking Water Systems.
- B. The well must be grouted as specified in the State Of Utah Rules for Public Drinking Water Systems, including witnessing of the grouting procedure by a representative certified by the Utah Division of Drinking Water as set forth in Utah Administrative Code R309-515-6(5)(b)(i). A variance from this grouting requirement may be granted by the Director based on geology of the aquifer or other mitigating circumstances.
- C. The well casing shall extend to an elevation greater than the 100-year flood water elevation. In all cases the well casing shall extend at least 18 inches above the surrounding ground level. However, pitless adaptors and well casings that terminate in underground vaults may be permitted on a case-by-case basis.
- D. After drilling is completed, the well shall be pumped free of all mud and sand and then disinfected by the introduction of sufficient chlorine solution into the well to produce a chlorine residual of at least 50 mg/l. After the chlorine solution has remained in the well for at least eight hours, it shall be pumped out and the well water tested for bacteriological purity or repeated treatment and testing to ensure satisfactory bacteriological purity. Concentrated chlorine solution is harmful to fish and other aquatic wildlife and shall not be discharged to any waterways unless the chlorine solution is first neutralized. Alternative methods of disinfection may be approved by the Director.
- E. The results of a constant rate pump test performed by a licensed pump installer, as certified by the Utah Division of Water Rights, showing the firm yield of the well must be submitted to the Department.

11.2 Required Plans for Submission Before Spring Development. Before construction of spring development or spring improvements the following information shall be submitted to the Department and approved in writing by the Director:

- A. detailed plans and specifications covering the spring development work, in accordance with Section 11.4., and

- B. a copy of a statement by the design engineer indicating the measured or anticipated flow from the spring source.
- 11.3 Required Information for Submission After Spring Development. Spring water may be introduced into a non-public water system serving 4-7 connections only after it has been approved, in writing, for such use by the Director. Approval shall be given only if the following information has been submitted to the Department and the Department has determined that the water is and can be reasonably expected to remain of satisfactory quality:
- A. Proof of satisfactory bacteriological quality.
  - B. Information on the rate of flow developed from the spring.
  - C. As-built plans of spring development.
- 11.4 Spring Construction and Development. The construction and development of a spring supplying a non-public water system serving 4-7 connections shall be as follows:
- A. The spring collection device shall be covered with a minimum of ten feet of relatively impervious soil cover, or shall be covered with a synthetic liner with a minimum of two feet of relatively impervious soil cover on top of the liner. The soil cover or liner shall extend a minimum of 15 feet in all directions horizontally from the spring collection device. If a liner is utilized, the liner and liner installation shall comply with the State of Utah Rules for Public Drinking Water Systems.
  - B. All access boxes or collection boxes shall substantially comply with the State of Utah Rules for Public Drinking Water Systems for access manholes, air vents, and overflow piping. Access to the spring collection box shall be locked. All lids for spring boxes shall have a gasket and the chamber adequately vented. Each spring collection area shall be provided with at least one access box to permit spring inspection and testing.
  - C. The spring collection area shall be surrounded by a fence located a distance of at least 50 feet uphill from all collection devices, and a distance of at least 15 feet downhill from all collection devices. The fence shall be at least stock tight. Within the fenced area all vegetation that has a deep root system shall be removed. In areas where there is little or no grazing, the fencing requirement may be waived by the Director, but vegetation that has a deep root system shall still be removed from the immediate area of the spring collection device/s.
  - D. Where practical, a diversion channel capable of diverting all anticipated surface water runoff away from the spring area shall be constructed immediately above the spring collection area.

- E. The spring shall be developed in such a manner as to minimize the possibility of excess spring water ponding within the collection area. If the ponding of spring water is unavoidable, the excess shall be collected by shallow piping or French drain and routed beyond the immediate collection area.

11.5 Water Storage Requirements. Water storage requirements for non-public water systems serving 4-7 connections shall be as follows:

- A. Water storage amounts for indoor use shall be 400 gallons per day per connection.
- B. Where there is outside water use, water storage amounts for outside use shall be calculated in accordance with the State of Utah Rules for Public Drinking Water Systems.
- C. Water storage requirements for fire flows shall be determined by the local fire authority, and shall be included in the total storage amount if the fire flows are to be delivered through the culinary distribution system.
- D. The total water storage requirement shall be the sum of the indoor use requirement, the outdoor use requirement, and the fire flow requirement.
- E. Water storage shall otherwise be in compliance with the State of Utah Rules for Public Drinking Water Systems and water storage reservoirs shall be constructed in accordance with those rules.

11.6 Distribution System. The distribution system for non-public water systems with 4-7 connections shall be constructed in accordance with the State of Utah Rules for Public Drinking Water Systems. Fire flows shall be determined by the local fire authority, and shall be included in sizing the distribution lines for peak flows.

11.7 Compliance with Plumbing Code. The construction of non-public water systems shall be in compliance with the current plumbing code as adopted by the State of Utah and/or the local jurisdiction.

## 12. COMMERCIAL AND INDUSTRIAL WATER SYSTEMS

Any new non-residential water system, such as any commercial or industrial business, shall comply with the State of Utah Rules for a Public Water System if the total number of employees and/or customers served equal 25 or more persons and the business is open for at least 60 days per year. New commercial or residential systems serving 24 or less employees and customers shall comply with Section 10 of this rule, "*Requirements for non-public water system serving 4-7 connections*".

### 13. EMERGENCY ORDERS

If the Director finds that an emergency exists, requiring immediate action to protect the public's health, safety, or well-being, the Director may issue an order declaring the existence of an emergency and requiring that remedial action be taken. The order shall be effective immediately. Upon application to the Department, the recipient of the order shall be granted a hearing before the Director within 48 hours. On the basis of the hearing, and not more than 24 hours after the adjournment of the hearing, the Director shall continue, modify, or revoke the order.

### 14. NOTICE

14.1 Department to Notify Owner/s or Others of Violations. If the Department inspects any property and finds it to be in violation of these rules, or has reasonable grounds to believe that there has been a violation of any part of these rules the Department shall give notice of violation of any part of these rules to the owner/s or other responsible person(s) thereof.

14.2 Director to Issue Written Notice of Violations. Prior to initiating a court complaint for the violation of these rules, the Director shall issue a notice pursuant to Section 13.1 and shall:

- A. describe the property,
- B. give a statement of the cause for its issuance,
- C. set forth an outline of the remedial action necessary to correct the violations, and
- D. set a reasonable time for the performance of any required remedial act.

14.3 Department to Serve Notice. The Department shall serve notice pursuant to Sections 13.1 and 13.2 upon the owner(s) of the property or other responsible person(s). Service shall be deemed complete if the notice is served in one of the following ways:

- A. served in person in written form, or
- B. after a reasonable effort to locate the individual, sent by certified mail to the last known address of the owner or other responsible person with address correction requested, and also published in a newspaper of general circulation at least once a week for two weeks.

### 15. ENFORCEMENT

15.1 Department to Ensure Compliance. It shall be the duty of the Department, upon the presentation of proper credentials, to make inspections of any property containing a non-public water system as is necessary to ensure compliance with these rules.

15.2 Inspection Made With Consent. Departmental inspections may be made with the consent of the owner/s or other responsible person(s). If consent is not granted, an inspection may be made pursuant to an administrative search warrant issued by a court of competent jurisdiction based upon probable cause.

15.3 Owner/s May Request a Factual Report of Inspections. The owner/s of any property may request and shall be provided a report setting forth all facts found that relate to compliance with these rules.

## 16. VARIANCES

A variance may be granted from the provisions of this rule when the result of the variance meets the purpose and intent of this rule, and the variance will not create a health hazard.

The variance shall not constitute a grant of special privilege, be based upon reason of hardship caused by previous actions of the property owner, nor be granted for financial reasons alone. A variance will not be granted when it would be detrimental to the public health, safety or welfare, or injurious to other property. In granting variances, the Director may require such conditions as will, in the Director's judgment, secure substantially the objectives of this rule. Applicants or their representative have the right to appeal any decision on a variance request in accordance with the appeals procedure described in Section 16 following.

## 17. RIGHT TO APPEAL

Within ten calendar days after the Department has given a notice of violation(s) under this rule, any persons aggrieved by the notice may request, in writing, a hearing before the Director. Similarly, within 10 days of notice of a staff decision in the interpretation of these rules, an aggrieved person may appeal the staff decision in writing to the Director. The aggrieved person cites or describes the decision they wish to appeal and includes a brief statement of the reasons for seeking an appeal. A hearing shall take place within ten calendar days after the request. A written notice of the Director's final determination shall be given within ten calendar days after adjournment of the hearing. The Director may sustain, modify, or reverse the action or order.

## 18. PENALTY

18.1 Any person who is found guilty of violating any of the provisions of these rules, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor. If a person is found guilty of a subsequent similar violation within two years, he/she is guilty of a class A misdemeanor.

18.2 Each day such violation is committed or permitted to continue shall constitute a separate violation, unless the responsible party is legitimately attempting to correct the deficient condition(s).

- 18.3 The county attorney may initiate legal action, civil or criminal, requested by the Director to abate any condition that exists in violation of these rules.
- 18.4 In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules shall be liable for all expenses incurred by the Department in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard, or sanitation violation.

## **19. SEVERABILITY**

If any provision, clause, sentence, or paragraph of these rules or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of these rules. The valid part of any clause, sentence, or paragraph of these rules shall be given independence from the invalid provisions or application and to this end the provisions of these rules are hereby declared to be severable.

## **20. "GRANDFATHER" CLAUSE**

Any non-public water system existing prior to the enactment date of these rules is excluded from these rules, provided that there are no additional connections added to the existing non-public water system, except connections may be added to an existing system in conformance with the following:

- 20.1 An existing non-public water system of one or two connections may grow to a total of three connections in accordance with Section 8.2.
- 20.2 An existing non-public water system of four or more connections will not be required to meet the construction standards of Section 11 due to connections being added to the system (up to a total of seven connections), as long as the Department can be reasonably assured that the system can reliably supply water in sufficient quantity and quality.
- 20.3 An existing non-public water system of three or fewer connections that grows to four to seven connections will be required to fully comply with these rules, including the Construction Standards of Section 11. If an existing non-public water system of three or fewer connections grows to eight or more connections it will become regulated by the Division of Drinking Water and will have to comply with the Division's rules for a public system.

## **21. AUTHORITY AND EFFECTIVE DATE**

This regulation is adopted under the authority of Title 26A, Local Health Authorities. Enforcement of this regulation is under the authority of 26A-1-114, Utah Code Annotated, 1953, as amended. These rules shall become effective 15 days after their enactment by the Central Utah Board



of Health. After adoption, six copies of this code shall be filed for use and examination by the public in the offices of the clerks of Juab, Millard, Sanpete, Sevier, Piute and Wayne Counties.

**ADOPTED BY THE CENTRAL UTAH BOARD OF HEALTH,**

this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

Chairman, Central Utah Board of Health

Department Director

SHARED WELL WATER AGREEMENT

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_, party of the first part, hereinafter referred to as the "supplying party", and \_\_\_\_\_, party of the second part, hereinafter referred to as the "supplied party":

WITNESSETH:

THAT WHEREAS, the supplying party is now the owner of property known as \_\_\_\_\_ (Parcel 1)<sup>2</sup>, located in the County of \_\_\_\_\_, State of \_\_\_\_\_, which property is more fully described as follows, to wit:

and

WHEREAS, the supplied party is the owner of \_\_\_\_\_ (Parcel 2)<sup>2</sup>, located in the County of \_\_\_\_\_, State of \_\_\_\_\_, which property is more fully described as follows, to wit:

and

WHEREAS, the undersigned parties deem it necessary to provide a well system to service the parcels described herein, and an Agreement has been reached relative to supplying water from the well and the cost of supplying said water; and

WHEREAS, there is located a well upon \_\_\_\_\_ (Parcel 1)<sup>2</sup>, together with water distribution facilities, hereinafter referred to as "water distribution system", for the purpose of supplying water to all properties connected to the said water distribution system; and

WHEREAS, it is the intention and purpose of the undersigned parties that the well and water distribution system shall be used and operated to provide an adequate supply of water for each of the properties connected thereto, for the domestic consumption of the occupants of said properties, and to assure the continuous and satisfactory operation and maintenance of the well and water distribution system for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto; and

WHEREAS, the said well is deemed by the parties hereto to be of adequate capacity to supply a single family dwelling on each of the parcels described herein with water from the well for all domestic uses of a single family residing therein; and

WHEREAS, the water from the well has undergone a water quality analysis from the State of \_\_\_\_\_ health authority and has been determined by the authority to supply safe and potable water; and

WHEREAS, the parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to said well and water distribution system.

NOW THEREFORE, in consideration of the promises and covenants herein contained, it is agreed that the well and water distribution system situated on \_\_\_\_\_ (Parcel 1) shall be used by the parties to this Agreement, as well as by all future owners and occupants of said parcels, upon the following terms and conditions:

1. The parties hereto, their heirs, successors and assigns, for the exclusive benefit of the respective parcels of real estate, and for the exclusive use of the household residing thereon, are hereby granted the right in common with the other parties to this Agreement, to draw water from the well located on \_\_\_\_\_ for quotidian domestic use excluding the right to draw water to fill swimming pools of any type.
2. That the owners or residents of the dwellings located on \_\_\_\_\_ (Parcel 2)<sup>3</sup>, as of the date of this Agreement shall:
  - a. Pay or cause to be paid to the supplying party, an annual fee for this use of the well and water distribution system;<sup>4</sup>
  - b. Pay or cause to be paid promptly, a proportionate share of all expenses for the operation and maintenance of the well and water distribution system that may become necessary. Each respective share shall be determined by dividing the amount of each expense by two<sup>5</sup>, it being understood that the supplying party and the supplied party shall pay an amount equal to one half<sup>5</sup> of the total of such necessary repair or replacement. Shared expenses include the cost of electricity for pumping, repairs and maintenance on said well and water distribution system.
3. That the cost of any removal or replacement of pre-existing site improvements on an individual parcel necessary for system operation, maintenance, replacement, improvements, inspection or testing, damaged as a result of repair of the well or water distribution system maintenance will be borne by the owner of the affected parcel, except that costs to remove and replace common boundary fencing or walls damaged as a result of repair shall be shared equally between or among parties so damaged.
4. That each of the parties hereby agrees that they will promptly repair, maintain and replace all water pipes or mains serving their respective dwellings.
5. That the consent of all parties to pay a proportionate share of costs shall be obtained prior to embarking upon expenditures for system maintenance, replacement or improvement, except in emergency situations. An arbitrator shall be chosen by the parties; shall be consulted in the event the parties cannot agree regarding the said expenditures; and the arbitrator's decision shall be definitive.<sup>9</sup>
6. That the supplied party shall pay to the supplying party his proportionate share for the cost of energy for the operation of the pumping equipment. This cost shall be determined by a separate meter upon each dwelling and for each parcel.

7. That it is the agreement of the parties hereto that the payment for energy cost shall be made not later than the \_\_\_\_\_ day of each succeeding month during the term of this Agreement. In the event that any such payment remains unpaid for a period of 20 days, the supplying party may terminate the supply of water to the supplied party until all arrearages in payment are received by the supplying party.
8. That it is the agreement of the parties that they shall permit a third party to cure a default of payment or other obligation and shall permit water distribution service to be reinstated upon such curative action.
9. That each of the parties to this Agreement does hereby grant to the other, his heirs, successors and assigns, such easements over, across and through the respective parcels as shall be reasonably necessary for the construction of the well, maintenance of water pipes, pumping equipment, mains, electrical wiring and conduit consistent with the purposes of this Agreement. These easements are described below, to wit: (Describe easements, if any and cite Warranty Deed)

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10. That no party may install landscaping or improvements that will impair the use of said easements.
11. That each party shall have the right to act to correct an emergency situation and shall have access to the pertinent parcel in the absence of the other. An emergency situation shall be defined as the failure of any shared portion of the system to deliver water upon demand.
12. That only those parcels of real estate hereinabove described and the dwellings located thereon shall be permitted to receive water from said well and pumping equipment; and each of the parties hereto does hereby covenant and agree that he/she will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the well, nor permit other persons to connect to the pipes or mains serving his/her respective parcel.
13. That in the event the referenced well shall become contaminated and shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of all relevant parties, or in the event that another source of water shall become available to the respective parcels, then the rights and obligations of the parties created by this Agreement shall cease and terminate.
14. That upon the availability of such other source of water, it is contemplated that a reasonable time shall be allowed to effectuate the necessary connections to the new source.
15. That the respective rights and obligations of the parties shall continue until the parties who wish to terminate their participation in the Well Agreement have executed and filed a written statement of termination at the Office of the Register of Deeds of the County of \_\_\_\_\_, State of \_\_\_\_\_. Upon termination of participation in this Agreement, the owner and occupant of each residence which is terminated from the Agreement shall have no further right to the use of the well. The terminated parties shall disconnect their respective lateral connection from said well system and shall have no further obligation to pay or collect for maintenance and related expenses incurred thereafter. The costs of disconnection from the well and water system shall be borne by the owner of the pertinent parcel.
16. That the undersigned parties shall permit periodic well water sampling and testing by a responsible authority at the request of an undersigned party.

17. That the said well and this Agreement, if amended, shall serve no more than three single family dwelling units or three parcels, notwithstanding the ability of the parties to make other amendments to this Agreement.
18. That the parties may amend this Agreement to assure equitable distribution of shared costs and responsibilities;
19. That the term of this Agreement shall be perpetual, except as herein limited.
20. That the benefits and burdens of this Agreement shall constitute a covenant running with the parcels of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first above written.

BY \_\_\_\_\_

DATE \_\_\_\_\_

BY \_\_\_\_\_

DATE \_\_\_\_\_

County of )

)ss

State of )

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## FOOTNOTES

1. This Well Agreement is written for two parties, viz. a "supplying party" and a "supplied party"; however, the language, where appropriate, may be adjusted to encompass up to four parties, one of whom would be the supplying party. The same format is to be used for legal descriptions for additional parcels. The parties may elect to choose a trustee to receive payments and manage the maintenance and satisfactory operation of the well and water distribution system.
2. The terms "Parcel 1" and "Parcel 2" are used herein for convenience; any accurate description of the relevant land may be used in this Agreement.
3. In accordance with Footnote 1, if there are more than two parcels, the following language may be substituted:  
"That the owners or residents of the dwellings located on said parcels, as of the date of this Agreement, shall..."
4. This Well Agreement need not necessarily require an annual fee. If the parties agree not to charge an annual fee, then the language of "a" may be eliminated.
5. If there are more than two parcels, expenses should be divided by the number of parties to the Agreement. The following language may be substituted:  
"Each respective share shall be determined by dividing the amount of each expense by \_\_\_\_\_, the number of parties to the Agreement."
6. The following language may be substituted if there are more than two parties:  
"That the undersigned supplied parties shall pay to the supplying party (or Trustee) their respective proportionate shares for the cost of energy for the operation of the pumping equipment..."
7. The use of all personal pronouns, possessive adjectives and referents comprehends both genders, and intends not to exclude the female gender from its purview.
8. The following language may be substituted if there are more than two parties to the Agreement:  
"In the event that any such payment remains unpaid for a period of 20 days, the supplying party may terminate the supply of water to the supplied party owing him a payment until all arrearages in his payments are received by the supplying party."
9. The decision whether to select and employ an arbitrator shall be optional, and according to the mutual preferences of the parties.