

Well Time of Sale Requirements

Property Transactions

February, 2014

Guthrie County Board of Health regulations require that at the time of sale of any property within Guthrie County there must be an inspection done of all wells on that property. This applies to ALL sales whether within a family, owner to tenant, etc. The only exceptions are TRANSFERS involving NO money or other compensation. Such things as spouse to spouse transfer at death, father to son with no compensation, etc. fall into this category. These rules are also in effect in Cass, Audubon, and Adair Counties.

All banks, lawyers, and real estate agents in and around our four-county area have been notified of these requirements. These requirements have been in place for many years and should be known to all professionals dealing with land transactions. If an agent fails to properly comply with these rules, this Dept. would encourage the buyer (who is then responsible) to follow up with that agent and insist the agent stand the expense of complying with the rules.

Following is a thorough explanation of this process, including the actual Board rules, that has been provided to agents to understand what is expected. Always feel free to contact this Dept. for help in explanation of this information. For Cass, Audubon, and Adair Counties just substitute your county name in the appropriate places.

SPECIAL NOTICE

Guthrie County Regulations

Time of Sale Requirements

The Boards of Health and Supervisors have adopted a short regulations section that will impact how you do business on property sales. Please read the following carefully and contact this Department if you have further questions.

In 1987 when the Groundwater Protection Act was passed there was a lot of emphasis placed on wells. As you likely know, there was a schedule developed for plugging abandoned wells and updating certain existing wells. It is now felt that enough years have passed and a further effort to gain compliance on well closings is needed.

Therefore, Guthrie County adopted the following additional rules section to the "Guthrie County Board of Health Rules and Regulations" under Non-Public Water Wells. The additions are as follows:

Section 13 Well inspection and inventory at property sale

A. Prior to time of sale of a parcel of property in Guthrie County, all wells on the parcel being offered for sale must be brought into compliance with Iowa Administrative Code, Chapter 49 "Non-Public Water Wells" and Chapter 39 "Properly Plugging Abandoned Wells" and applicable Guthrie County Board of Health regulations. **It is the responsibility of the seller, or agent, to complete these requirements prior to the sale. Failure to do so is considered a misdemeanor and may result in a \$100 fine.**

B. An Iowa Groundwater Hazard Statement must be submitted to this Department prior to the time of sale. Department staff shall conduct an inspection to determine whether wells are in-use, standby, or abandoned and whether they are maintained, need repaired or plugged as prescribed by State Code and County regulations. Upgrading,

repairs and/or plugging as a part of the sale is to insure that standby and abandoned wells are in compliance with Chapters 49 and 39 and applicable County regulations.

C. Each well determined to be an in-use well shall have a coliform bacteria and nitrate test performed on it by the Department. DNR form 542-1207, or its equivalent, shall be completed. The results of this test shall be provided to the buyer prior to time of sale and is used for informational purposes only.

D. Should a Groundwater Hazard Statement be received after the sale has been completed, the new owner shall be responsible for bringing all wells into compliance with these rules.

E. Cisterns pose a potential safety hazard and shall be inspected the same as wells. They shall therefore either be maintained in a safe manner as determined by this Department or the cistern must be properly filled in accordance with this Department's procedures.

To help you better understand these rules; let's look at the types of wells we are discussing.

Active Wells or In-Use Wells: These wells are actively used all or nearly all of the time for a house, buildings, or livestock purposes. These wells are powered by electricity and used year-around. The only time of sale requirement for these wells is a water test. The results are given to the buyer for their information only. Our Department does not require upgrading an active well due to a poor water test result. The cost of the water test is only \$25.00 and must be done by this Department.

Abandoned Wells: Most abandoned wells are CLEARLY abandoned. These are often the hand pump wells that have not been used in many years. Other abandoned wells include those with no electrical source, unless they are up to State code and have a sealed cap. These wells must be properly closed and a representative from this Department must be present when the work is being done. Plugging a well requires certain materials to be used. Depending on the well, sand or rock along with bentonite clay is used and these materials are layered through the well. There is currently cost share money available to assist in plugging a well. This is currently 100% of the cost with a \$400.00 maximum.

Standby Wells: The State and County's definition of a standby well is "a water well which is temporarily taken out of service with the expectation of being returned to service at a future date". These standby wells must meet certain conditions in order to be standby. These conditions being to have electricity running to them so that a water test may be collected and/or they are up to current State well code. Standby wells must not be subject to contamination by surface drainage or from other causes. Wells just sitting around will not meet these requirements. These wells then fall under the abandoned category where they are to be plugged, or in some cases, renovated. Renovation is an option in some cases where the well meets certain requirements. Some wells are so poorly constructed they should not be renovated and the County will not cost share on them. Only a certified well contractor can renovate a well. The cost share payment is 100% of the cost with a maximum of \$600.00.

Our Department is to be notified of these properties prior to the sale so that water tests can be collected and the results returned for buyers to see prior to them purchasing the property. The escrowing of money should be done so that abandoned wells are taken care of if the sale has to be completed before the work can be done. Situations do come up where the buyer wants to activate a standby well or renovate an abandoned well and the seller prefers to plug it as the cheaper alternative. In these cases, we are willing to work with the parties within a reasonable time frame to get the work completed and to let the sale be completed.

If our Department receives a Groundwater Hazard Statement and no one has notified us of the sale, the new buyer will be notified and expected to fulfill any time of sale rules at the buyer's expense. Real estate agents and lawyers in the area have been made aware of these rules and are ultimately the ones responsible for making sure the rules are adhered to. If they have not done their jobs, buyers should go back to these people and demand they remedy the situation. Failure to comply with the time of sale rules may result in a fine. Court action may be taken against agents that continually ignore these requirements.

If you are the buyer of a property and we are notifying you of these rules for the first time because we received a Groundwater Hazard Statement, please call us regarding the condition of the well(s). You are now responsible for fulfilling these rules as the new owner. If all of your wells are in-use wells, a simple water test will take care of it. If you have abandoned wells, your situation may be more complicated. We suggest you contact the agent involved with the sale to discuss their responsibility and hopefully something can be worked out between you. Our office needs to be contacted regardless. Your name will not be removed from our listing until these rules are complied with. Court action will be taken if these rules are not fulfilled in a timely manner.

Please call us with any questions you may have.

Sincerely,

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