

Board Member Ms. Cheri Jahn moved that the following Resolution be adopted:

BEFORE THE BOARD OF HEALTH

OF THE COUNTY OF JEFFERSON

STATE OF COLORADO

RESOLUTION NO. 2022-001

RE: Adoption of On-site Wastewater Treatment System (OWTS) Standards Policy for Indian Hills and Parmalee Gulch Area

RECITALS

Regulatory Background

- A. In 1973 the Colorado State legislature adopted the first version of the Colorado On-Site Wastewater Treatment Systems Act, see C.R.S. 25-10-101 et seq. (the “Act”).
- B. The purpose of the Act is to preserve the environment and protect the public health and water quality; to eliminate and control the causes of disease, infection, and aerosol contamination; and to reduce and control the pollution of the air, land, and water.
- C. The Act requires the Colorado Department of Public Health and the Environment to develop and recommend to the Water Quality Control Commission certain minimum standards for the location, design, construction, performance, installation, alternation and use of on-site wastewater treatment systems (OWTS) within Colorado.
- D. Section 25-10-104(2) of the Act requires every local board of health to adopt detailed rules for on-site wastewater treatment systems within its area of jurisdiction.

History of Jefferson County Board of Health Orders

- E. During the 1970s, Jefferson County Public Health (“JCPH”) conducted a well sampling program in the Indian Hills and Parmalee Gulch area. The sampling

demonstrated elevated levels of nitrates in the drinking water, and some samples had nitrate levels above the public drinking water system standard of 10 mg/liter.

- F. On November 17, 1978, the Board of Health held a special meeting at which it considered the results of the well sampling program and found that the construction and use of additional OWTS on certain lots in the Indian Hills, Parmalee Gulch, and Alpine Village subdivisions (the "Prohibition Area") would constitute a hazard to public health. It consequently issued a resolution prohibiting the issuance of individual sewage disposal system permits for buildingsites situated on specific parcels in the Prohibition Area from November 17, 1978 to May 18, 1979, (the "1978 Resolution") while the area was studied further effectively creating a moratorium on the issuance of permits in this area.
- G. Over the next six months, the Environmental Health Division of JCPH conducted an ongoing investigation to monitor changes in the nitrate concentrations in ground water on the parcels that were subject to the Prohibition Area from the 1978 Resolution.
- H. On August 17, 1979, the Board of Health held a meeting at which it found that the construction and use of additional OWTS in the Prohibition Area would constitute a hazard to public health. The Board then issued a resolution prohibiting the issuance of individual sewage disposal system permits for certain parcels unless the individual sewage disposal systems/OWTS will not release nitrates into the environment, increasing the lot size requirements for areas upslope of the designated parcels, and requiring all OWTS permit applications in the Prohibition Area and upslope areas to go before the Board for review (the "1979 Resolution").
- I. The 1979 Resolution remained in effect for many years until advances in technology and need for the clarification of the resolution resulted in action by the Board of Health in 2014.
- J. On December 16, 2014, the Board of Health adopted a resolution setting forth the Policy for OWTS Permitting Requirements for the Indian Hills/Parmalee Gulch Area ("2014 Policy") including the exact area upslope from prohibited lots that require larger lot sizes to obtain an OWTS permit, the required lot size for the upslope area, and the requirements for the OWTS in that area (the "2014 Resolution"). Furthermore, the 2014 Resolution no longer requires that the Board of Health review all applications for an OWTS permit that otherwise comply with the Policy.
- K. On January 20, 2015, the 2014 Policy was revised as required by the 2014 Resolution. The 2014 Policy prohibits the construction and use of

new OWTS in the Prohibition Area. Furthermore, the 2014 Policy sets OWTS standards for upslope areas, which are defined as properties outside of the Prohibition Area that are accessed from Parmalee Gulch Road and have a topographic slope towards Parmalee Gulch (“Upslope Areas”). The 2014 Policy also contains the list of parcels within the Prohibition Area.

Findings

- A. Since the time of the 1978, 1979, and 2014 Resolutions, OWTS technology has improved significantly. The installation of high-level treatment systems can reduce the mass loading of nitrates discharged to the groundwater in comparison to traditional OWTS.
- B. Areas of Jefferson County within the Mountain Groundwater Overlay District are located on a crystalline rock aquifer, which supplies the primary drinking water supply for many mountain-area residents. The inherent nature and physical properties of the aquifer render it vulnerable to, and at risk of, contamination from the pollutants contained in OWTS effluent. This is in part due to the overlay of thin residual soils/regolith over portions of the weathered or fractured rock, which are inadequate to attenuate the pollutants contained in the OWTS effluent.
- C. Indian Hills and Parmalee Gulch are located within the Mountain Groundwater Overlay District and are typified by steep slopes, poor soil conditions, centralized downslope drainage, high levels of rock fracturing in the bedrock, and the presence of the Floyd Hill fault. Additionally, the lot sizes in this area were subdivided at a density of more than one dwelling unit per acre many years ago prior to the adoption of County subdivision regulations. This puts them at high risk for groundwater contamination and in fact, well testing conducted in these areas has provided evidence of high levels of nitrates in the groundwater.

Intent

The intent of this Resolution is to take into account changing technology and the needs of the Jefferson County community in order to provide a responsible, science-based approach to the OWTS regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE JEFFERSON COUNTY BOARD OF HEALTH that

1. The updated Policy be and hereby is adopted and shall replace the 2014 Policy adopted by the Board of Health;

2. The updated Policy shall modify and take precedence over the 1978, 1979, and 2014 Resolutions; and
3. The Policy shall become effective forty-five days after the adoption of this Resolution.

Board Member Dr. Harriet Hall seconded the adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

The Resolution was adopted by unanimous vote of the Board of Health of the County of Jefferson, State of Colorado.

Cheri Jahn – aye
Lane Drager – aye
Kimberley Krapek – aye
Harriet Hall – aye

Dated: January 18, 2022