

# DAKOTA COUNTY



**ORDINANCE NO. 114**

## **WELL AND WATER SUPPLY MANAGEMENT**

Amended by Dakota County Board of Commissioners  
November 3, 1998

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# DAKOTA COUNTY ORDINANCE NO. 114

## "WELL AND WATER SUPPLY MANAGEMENT"

The Board of Commissioners of Dakota County, Minnesota, does hereby ordain and adopt this Ordinance for the regulation of Well construction, Repair and sealing and Water Supplies as follows:

### SECTION 100.

#### GENERAL PROVISIONS

101. **PURPOSE.** The purpose of the Well and Water Supply Management Ordinance shall be to provide standards for and regulation of Wells and Water Supplies to protect Groundwater and the environment and to promote the public health, safety and general welfare of Dakota County pursuant to authority granted under Minnesota Statutes, Chapter 103I, Chapter 145A and any subsequent amendments. This shall include their proper location and construction; their necessary modification and Reconstruction; their operation, maintenance and Repair; their orderly and Permanent Sealing; and the Annual Maintenance Permitting, including Registered Use Wells and Unused Wells.
102. **OBJECTIVES.** The principal objectives of this Ordinance shall include the following:
  - 102.1 The protection of abundant resources and potable supplies of pure Groundwater essential to the promotion of the public's health, safety and welfare, the protection of the County's environment, and the socioeconomic growth and development of the County.
  - 102.2 Given the extensive resources and numerous supplies of Groundwater and *their susceptibility to contamination* because of the County's unique hydro-geological attributes and diverse human activities, regulation of the proper construction, Reconstruction, operation, maintenance, Repair, Permanent Sealing, and annual maintenance, of all Wells and all Water Supplies is essential to prevent the entry and migration of Contaminants thereby ensuring the non-degradation of Groundwater and the preservation of Groundwater resources.
  - 102.3 Establishment of minimum standards for the proper siting, design, construction, development, operation, maintenance, Repair, Reconstruction, Permanent Sealing, and Annual Maintenance Permitting of all Wells including Registered Use Wells and Unused Wells to prevent Groundwater contamination.
  - 102.4 The prevention and control of waterborne disease, Groundwater-related hazards and their accidents, and nuisance conditions and the promotion of safe drinking water quality and abundant Groundwater resources through technical assistance and education, plan reviews, Inspections, Sanitary Surveys and complaint investigations of Wells and Water Supplies.

- 102.5 The proper Permanent Sealing of existing Wells whose location, improper construction or Reconstruction, inappropriate operation and use, or illegal plugging, filling or misuse serve to directly or indirectly provide entry for and migration of Contaminants to the subsurface thereby polluting Groundwater or depleting Groundwater resources.
- 102.6 The study and interpretation of the County's Groundwater resources and unique hydrogeologic attributes by requiring Well logs, Groundwater testing and other observations, measurements and records which contribute to the advancement of Groundwater science and technology, and to the development of Groundwater protection strategies.
103. SCOPE. This Ordinance shall regulate the construction, Reconstruction, operation, maintenance, Repair, Permanent Sealing, and Annual Maintenance Permitting (including Registered Use Wells, and Unused Wells), of all Wells in Dakota County including, but not limited to, private residential Wells, public non-community Wells, agricultural and Irrigation Wells, commercial and industrial Wells, Monitoring Wells, recovery and Dewatering Wells, open Wells, injection Wells, or other Approved Groundwater sources when a conventional Well can not be constructed, unless otherwise provided in this Ordinance or exempted in the delegation agreement with the Minnesota Department of Health. This Ordinance shall not regulate new or existing community Water Supply Wells.
104. DEFINITIONS. For the purpose of this Ordinance, definitions of terms provided in Minnesota Statutes Chapter 103H and 103I, Minnesota Rules Chapter 4725, and related Laws and regulations, as referenced and subsequently amended, shall have the same meanings subscribed to them in this Ordinance, as well as the following definitions of terms:
- 104.1 **"Annual Maintenance Permit" or "Annual Maintenance Permitting"** this annual Permit shall apply to all Wells meeting the definition of Registered Use Well or Unused Well. This Permit includes Registered Use Well and Unused Well Permits. The primary purpose of the Annual Maintenance Permit is the protection of Groundwater resources, accomplished by expediting the Permanent Sealing of a Well upon disuse of the Well or Permit termination.
- 104.2 **"Applicant"** shall mean any Person who applies for any Well Permit pursuant to this Ordinance.
- 104.3 **"Approved"** shall mean an action, plan or other application to the Department that The Department determines to be acceptable because of conformance to or compliance with appropriate regulations, criteria, standards and good public health practices.
- 104.4 **"Approved Testing Methods"** shall mean all those relevant sample collection, preservation, analytical and statistical reporting methods known to accurately represent physical, chemical, biological and radiological parameters of interest or concern in water, wastewater or waste. Approved Testing Methods shall be regulatory or consensus standards and shall include the current editions of, but shall not be limited to, standard methods for the examination of water and wastewater (APHA, AWWA, WPCF) and methods for chemical analysis of water and wastes (EPA).
- 104.5 **"Approved Water Treatment"** shall mean a method of treatment or a treatment device installed, maintained, and/or used according to

manufacturer's intentions and directions for treatment of contaminated drinking Water Supplies.

- 104.6 **"Aquifer"** shall mean a water-bearing formation (soil or bedrock) that stores and transmits Groundwater in sufficient quantities to supply a Well.
- 104.7 **"Boring"** shall mean a hole or excavation that is not used to extract water and includes exploratory Borings, Environmental Bore Holes, vertical heat exchangers, and elevator shafts. Borehole construction and sealing are not regulated by this Ordinance.
- 104.8 **"Contaminant"** shall mean any physical, chemical, biological, or radiological substance or material in water, which tends to degrade water quality by contributing toxicity, constituting a hazard or otherwise impairing its usefulness. "Contamination" shall mean the presence in water of certain infectious or toxic agents or certain hazardous characteristics capable of causing disease or other harm.
- 104.9 **"County"** shall mean Dakota County, Minnesota.
- 104.10 **"County Board"** shall mean the Board of Commissioners of Dakota County, which shall act as the Board of Health pursuant to Minnesota Statutes Chapter 145A.
- 104.11 **"Department"** shall mean the Dakota County Environmental Management Department, its Environmental Specialists or other designated agents.
- 104.12 **"Dewatering Well"** is a non-potable Well used to lower Groundwater levels to allow for construction of use of underground space.
- 104.13 **"Disinfection"** shall mean sanitization or bactericidal and other germicidal treatment of a Well or a Water Supply by a process Approved by the Department that provides either sufficient accumulative heat or minimum concentration of Approved chemical sanitizing or Disinfection agents for a sufficient contact time and under specified conditions to destroy or to substantially reduce to a safe and acceptable level, as determined by Approved test methods, microorganisms, including pathogens, while being neither damaging to materials and equipment nor hazardous to the health or safety of workers or consumers.
- 104.14 **"Drive Point Well" (or "Sand Point")** shall mean a Well constructed by forcing a pointed Well screen, attached to sections of pipe, into the ground with the screen and casing forced or driven into the ground with a hammer, maul, or weight. Drive Point Wells must meet all construction standards and must be Permitted by the Department prior to construction.
- 104.15 **"Embargo"** shall mean the withholding from use, sale or other employment of materials, equipment, supplies or products that come under the jurisdiction of this Ordinance by affixing a tag, and without taking physical possession, until approval for release is given for the use, sale or other employment by the Department or until condemned and otherwise resolved.
- 104.16 **"Environmental Bore Hole"** includes excavations used to: measure Groundwater levels, determine Groundwater flow directions or velocity, measure earth properties including hydraulic conductivity, bearing capacity, or resistance, obtain samples of geologic materials for testing or classification, or

remove gaseous pollution or contamination from Groundwater or soil through the use of a vent, vapor recovery system, or sparge point. Observation Wells and Piezometers are examples of Environmental Bore Holes. If a water sample is obtained from an excavation and tested, the excavation is a Monitoring Well, not an Environmental Bore Hole. Environmental Borehole construction and sealing are not regulated by this Ordinance.

- 104.17 **"Groundwater" or "Ground Water"** shall mean all subsurface water in the Vadose (unsaturated) and Phreatic (saturated) zones occurring naturally in soil and rock formations, whether or not capable of yielding the water to Wells, and shall specifically mean that subsurface water present in the saturated zone defined by a perched, free or confined Ground Water surface.
- 104.18 **"Inaccessible Well Variance"** shall mean a variance from the requirement of sealing the Well due to inaccessibility caused by structures or obstruction. This variance shall require the proper protection of the Well from contamination sources. This variance also requires the filing of the Well information with the Dakota County Property Records Office and requires the Well to be sealed if it becomes accessible at any time. The Minnesota Department of Health must approve the variance before County approval.
- 104.19 **"Inspection"** shall mean those collective observations, tests, measurements and other assessments made at a certain point in time to determine conformity to and compliance with all applicable rules and regulations, as well as with appropriate sanitary codes, practices and environmental criteria and standards adopted by the Department.
- 104.20 **"Irrigation Well"** is a Well utilized for irrigating golf courses, sod, shrubs, trees, and other agricultural crops.
- 104.21 **"Karst"** shall mean that surficial topography and exposed or underlying carbonate and other rock characterized by sinkholes, sinking streams, springs, caves or other landforms and features which facilitate the recharge of Groundwater and thereby may exacerbate its contamination. "Karst Water" includes both vadose and phreatic waters present in karsted soil and rock, which may have an indeterminate water table or potentiometric surface due to *variable integration and segregation of flow paths*.
- 104.22 **"Law"** shall mean federal, State, County and municipal statutes, ordinances, rules and regulations.
- 104.23 **"License"** shall mean the whole or part of an Approved form of permission or renewal required of Well Contractors by Minnesota Statutes Chapter 103I and any subsequent amendments, as administered by the Minnesota Department of Health under and pursuant to Minnesota Rules Chapter 4725 and any subsequent amendments.
- 104.24 **"Licensee"** shall mean a Person who is licensed as a Well Contractor, limited Well Contractor, or elevator shaft contractor under Minnesota Statutes, chapter 103I.
- 104.25 **"Monitoring Well"** is an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed to extract Groundwater for the physical, chemical, or biological testing. "Monitoring Well" includes a Groundwater quality sampling Well.

A Monitoring Well may be used to conduct a pumping test or aquifer test. Pumps must be installed and removed by a licensed or registered contractor.

A Monitoring Well may not be used to remove Groundwater for remediation.

- 104.26 **"Municipality"** shall mean a city, village, township or other political civil subdivision, or any combination acting cooperatively or jointly.
- 104.27 **"Notice of Violation"** A formal written notice issued by the Department to notify a Person of a violation of a County Ordinance. This Notice will inform the Person of the alleged violations, the nature and extent of the violations, and the required corrective actions. The Notice of Violation (NOV) shall also specify additional actions that may be taken by the Department.
- 104.28 **"Observation Well"** see Piezometer definition.
- 104.29 **"Owner"** shall mean any Person having a legal interest in real or personal property or any Person in possession or control of real or personal property including, but not limited to, mortgagees, contract-for-deed vendees and contract-for-deed vendors.
- 104.30 **"Permanent Sealing"** shall mean the sealing of an existing Well which ensures, when applicable: the removal of all obstructions; remediation of objectionable Contaminants; Disinfection of microorganisms; perforation, cutting and removal or the pulling back of casing and liners; injection of Approved grout from the bottom to the top of the entire Well filling all borehole spaces and the casings and liners. Permanent Sealing shall not include the illegal plugging or filling of a Well.
- 104.31 **"Permit"** shall mean the whole or part of an Approved form of permission or renewal required by this Ordinance to construct, reconstruct, Repair, register the use, verify condition and status as unused, or permanently seal a Well under and pursuant to Minnesota Rules Chapter 4725 and any subsequent amendments, and the Ordinance provisions contained herein. "Permittee" shall mean any Person to whom a valid Permit has been issued by the Department for the purpose of Well construction, Reconstruction, Repair, registered use, verifying condition and status as unused, or Permanent Sealing pursuant to this Ordinance.
- 104.32 **"Person"** shall mean any human being; any Municipality or other governmental or political subdivision or other public agency; any public or private corporation; any partnership, firm, association, or other organization; any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing; or any other legal entity.
- 104.33 **"Piezometer"** also sometimes referred to as an "Observation Well," shall mean a cased Well, open at the top and bottom, which enters into or goes through a water bearing layer (Aquifer) and is used for the purpose of measuring the elevation of the Ground Water. No water sample may be collected from a Piezometer. A Piezometer is a type of Environmental Bore Hole.
- 104.34 **"Phreatic Zone"** shall mean the saturated zone or that subsurface soil and rock in which all interconnected pore space is saturated with water, whether or not transmissible in sufficient quantities to yield water to Wells, and which may be defined by a perched, free or confined Groundwater surface. "Phreatic

water" shall include all Groundwater below a water table or uppermost potentiometric surface and may include perched Groundwater and Karst water.

- 104.35 **"Pollutant"** shall mean a Contaminant whose form, concentration or other presence in water exceeds acceptable criteria and standards for potable, safe drinking water prescribed by the Department. "Polluted Water" shall mean nonpotable water unfit for human consumption because it contains one or more Pollutants.
- 104.36 **"Potable Water"** shall mean water which is safe for human consumption, as determined by the Department, in that it is free from impurities in amounts sufficient to cause acute or chronic disease, toxicity or other adverse or harmful physiological effects by exposure through ingestion. "Nonpotable Water" shall mean water which is not safe for human consumption, as determined by the Department, but which may be used for other purposes pursuant to this Ordinance.
- 104.37 **"Property Transaction"** shall mean the sale, transfer, exchange or other conveyance of real property or legal rights held by an Owner.
- 104.38 **"Public Nuisance"** the creation of acts or conditions that unreasonably annoy, injure or endanger the safety, health, comfort, or repose of any number of members of the public.
- 104.39 **"Pumps and Pumping Equipment"** shall mean any equipment or materials used or intended for use in withdrawing or obtaining Groundwater, including, without limitation, seals and other safeguards, together with fittings and controls to protect the water from contamination and to provide sanitary water storage facilities.
- 104.40 **"Qualified Person"** shall mean a Well Contractor licensed by the State or a property Owner or lessee where allowed to construct a drivepoint Well pursuant to Minnesota Statutes Section 103I.205 and any subsequent amendments provided that the Person is deemed by the Department to be competent in Well construction, Repair and sealing, meets all other certifications or requirements and complies with this Ordinance.
- 104.41 **"Reclaimed Use Well"** shall mean a Well that is on a property served by a Potable Water Supply that has not been permanently sealed but has been restored for limited nonpotable water use subject to the conditions issued by the Department. The Owner of a reclaimed Well shall ensure the Department that there is no cross-connection with another Water Supply, that backflow and backsiphonage prevention methods or devices are utilized, that the Well does not present a threat to the quality or quantity of the Groundwater resource, and that upon disuse the Well shall be permanently sealed or its condition and status verified annually through a maintenance Permit pursuant to Section 1200 of this Ordinance.
- 104.42 **"Reconstruction"** shall mean any Approved work upon an existing Well which includes the modification of the Well casing, screen, diameter, or depth, including Well Repair.
- 104.43 **"Registered Use Well"** shall mean a Well, at least fourteen months after its original construction, operated on a year to year basis as a Monitoring Well or a Dewatering Well. It shall also mean a Well, regardless of the date of original construction, operated on a year to year basis for a special purpose including, but not limited to, remediation and product recovery Wells. All Wells meeting

this definition shall be subject to the conditions of a valid Annual Maintenance Permit issued by the Department.

- 104.44 **"Repair"** shall mean any Approved action upon an existing Well that results in a breaking or opening of the sanitary Well seal or in the replacement of a pump or Well appurtenances, but shall exclude any and all Reconstruction.
- 104.45 **"Sanitary Survey"** shall mean a comprehensive Inspection, inventory and testing of a Water Supply system, including the Well and its appurtenances, building plumbing, and water storage, treatment and use devices with emphasis on the sources of contamination to protect public health and safety.
- 104.46 **"Seizure"** shall mean the legally enforceable taking of possession by the Department or impoundment of materials, equipment, machines, supplies and products that come under the jurisdiction of this Ordinance. Seizure of materials, being used in a manner that violates or threatens to violate this Ordinance, is intended to protect the environment and to promote public health, safety and the general welfare until either released or condemned by the Department.
- 104.47 **"Service"** shall mean the personal Service of a document as defined in Rule 4.03 of the Minnesota Rules of Civil Procedure and any subsequent amendments or the delivery of any document by registered or certified mail to a person, at a certain location and by a certain date and time, exclusive of the day of Service, in order for the required notice to be officially received. Personal Service shall be completed at any reasonable time so as to give proper notice to a person. Service-by-mail shall be postmarked no later than midnight of the day before the notice is due to be received.
- 104.48 **"State"** shall mean the State of Minnesota.
- 104.49 **"Static Water Level"** shall mean the distance measured from the established ground surface to the water surface in a Well that is not being pumped, nor under the influence of pumping nor flowing under artesian pressure.
- 104.50 **"Temporary Capping"** shall mean the capping or secure watertight covering of an Unused Well, a new Well prior to placement into service, or an existing Well temporarily removed from service when allowed by the Department pursuant to this Ordinance. Capping shall not mean the illegal plugging or filling of a Well that is unused.
- 104.51 **"Temporary Monitoring Well"** shall mean a Monitoring Well, as defined in section 104.25, except that the Well will be sealed according to this Ordinance within 48 hours of construction. A sealing notification, along with the correct corresponding fee, must be sent to this Department prior to Well sealing.
- 104.52 **"Total Coliform Bacteria"** means all of the aerobic and facultative anaerobic, gram-negative, non-spore-forming, rod-shaped bacteria that ferment lactose with gas formation within 48 hours at 35 degrees centigrade.
- 104.53 **"Unique Well Number"** A Unique Well Number is the number assigned to a Well by the Minnesota Department of Health, the Minnesota Geologic Survey, or the County. Unique Well Numbers are preprinted on Well construction records and on Well sealing records provided by the Minnesota Department of Health. A "W" precedes Unique Well Numbers assigned by a County. Sealing record Unique Well Numbers are preceded by an "H".

- 104.54 **"Unlocatable Well Variance"** shall mean a variance from sealing a Well that cannot be located. An Unlocatable Well Variance may only be issued after a reasonable effort has been made to locate the Well. What constitutes a reasonable effort will be based on the type and depth of Wells in the area, geology, contamination, area land use, and other factors as determined by the Department. This variance also requires that the Well owner file the Well information with the Dakota County Property Records Office and to seal the Well if it is located. The Minnesota Department of Health must approve the variance before County approval.
- 104.55 **"Unused Well"** shall mean a Well which is no longer used, is unusable, is in disrepair, is not equipped with operable pumping equipment, or a Well which has been improperly capped, sealed, plugged, or filled with unapproved materials. Also included are Wells that due to location, construction, Reconstruction, operation, maintenance, Repair, or permitting endanger the quality, deplete the quantity of Groundwater, or pose a safety hazard.
- 104.56 **"Vadose Zone"** shall mean the unsaturated zone or that subsurface soil and rock in which infiltrating and percolating water moves horizontally and vertically through air-filled, interconnected pore space to recharge the Phreatic (or saturated) Zone, the latter defined by a perched, free or confined Groundwater surface. "Vadose Water" shall include near-surface water and subsurface infiltration water, including percolation water, capillary water and unsaturated soil water.
- 104.57 **"Warning Notice"** written notice issued by County staff to notify a Person of a violation of a County Ordinance. The Warning Notice will inform the Person of the alleged violations, the nature and extent of the violations, and the required corrective actions.
- 104.58 **"Water Supply"** shall mean a constructed storage and conveyance of water from its source to provide safe and convenient access for drinking or other uses, or for its observation, monitoring, remediation, recharge, surface water augmentation, irrigation, dewatering, permitted injection, or other Approved uses.
- 104.59 **"Well Contractor"** shall mean a Person, firm, partnership, association, corporation, or business who is licensed or has an employee that is licensed by the State pursuant to Minnesota Statutes Chapter 103I and any subsequent amendments, to construct, Repair or seal a Well upon land other than its own for compensation.
- 104.60 **"Well"** shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the same is for the location, diversion, artificial recharge, monitoring, acquisition or dewatering of Groundwater or the recovery of Contaminants degrading the Groundwater. Under Minnesota Statutes Chapter 103I and any subsequent amendments, the term does not include: (a) excavation by backhoe, or otherwise for temporary dewatering of Groundwater for nonpotable use during construction, where the depth thereof is twenty-five (25) feet or less; (b) an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying; (c) an excavation for the insertion of acceptable media to repressure oil or natural gas bearing formations or for storing petroleum, natural gas or other products; (d) an excavation for nonpotable use for wildfire

suppression activities; or (e) Borings; and provided that all of the above listed exceptions comply with other applicable regulations and neither contaminate nor deplete Groundwater resources.

104.61 **“Well Label”** A Well Label is a 2-inch by 3 ½-inch aluminum tag with the Unique Well Number stamped permanently into it.

## SECTION 200.

### ADMINISTRATION

201. **STANDARDS ADOPTED BY REFERENCE.** This Ordinance hereby adopts by reference Minnesota Rules Chapter 4725 as well as all subsequent amendments and referenced Laws and rules, which shall embody the minimum standards for the proper construction, Reconstruction, operation, maintenance, Repair, Permanent Sealing, and Annual Maintenance Permitting (including Registered Use, Wells and Unused Wells), of all Wells in Dakota County unless otherwise prescribed by this Ordinance. Where ambiguity in application of the Chapter 4725 Wells and Borings exists, the Department shall consult with the Minnesota Department of Health.
202. **HIGHER STANDARD REQUIRED.** Where there is conflict between the provisions and interpretation of this Ordinance, local municipal ordinances and State Laws and rules, those provisions which are more restrictive and which require the higher standard for the promotion of public health, safety and welfare and for the protection of the Groundwater and the environment shall prevail. The Department shall coordinate its interpretation with the State or local Municipality, as applicable, to resolve differences and ensure reasonable, consistent requirements. For the purposes of this Ordinance, applicable higher standards shall be deemed minimum standards.
203. **ENVIRONMENTAL MANAGEMENT DEPARTMENT.** This Ordinance carries the authority of Minnesota Statutes Chapters, 103H and 103I and any subsequent amendments, and the regulations adopted thereunder by the Minnesota Department of Health, Minnesota Rules Chapter 4725 and any subsequent amendments, as approved through delegation agreements and attachments between Dakota County and the Minnesota Department of Health for water Wells, Monitoring Wells and Dewatering Wells, and empowering the Department pursuant to authority granted under Minnesota Statutes Chapter 145A and any subsequent amendments, referred to as the "Local Public Health Act". The Department shall act as the health authority and Inspection agent with the administrative authority of the Minnesota Department of Health, with duties and responsibilities so delegated.
204. **DUTIES AND RESPONSIBILITIES.** The Department, its Environmental Specialists and its designated agents shall act as the health authority with respect to the regulation of the proper construction, Reconstruction, operation, maintenance, Repair, Permanent Sealing, and Annual Maintenance Permitting including registered use, unused, and Temporary Capping, of all Wells in Dakota County and shall have the following duties and responsibilities:
- 204.1 **Duties.** The Department shall implement this Ordinance in Dakota County by Permitting Minnesota Department of Health licensed Well Contractors and other Qualified Persons; reviewing Well Permit applications and design plans and specifications; approving Well Permits; inspecting Well construction, Reconstruction, annual maintenance and sealing; examining water Well Contractor documents and records; testing, measuring and evaluating water quality and quantity; citing violations of this Ordinance and carrying out enforcement action provisions with the assistance of the County Attorney; determining compliance with this Ordinance, sanitary codes and practices, safe drinking water maximum contaminant levels and health risk limits; investigating, referring and resolving complaints related to Ordinance provisions; maintaining all necessary records and completing all required

reports; coordinating with the Minnesota Department of Health, other State agencies, local Municipalities and others to ensure Groundwater protection; establishing policies, procedures, criteria and standards, and technical guidance for the regulation of Well construction, Repair and sealing; providing technical assistance and educating the public; studying and interpreting information and data to improve knowledge and protection of Groundwater resources and supplies; and performing all other duties however expressed or implied by this Ordinance; and

204.2 Responsibilities. The Department shall ensure the faithful execution of the delegation agreement with the Minnesota Department of Health by employing qualified Registered Environmental Specialists, requiring Well Inspectors to be certified and registered by the Minnesota Department of Health and promoting their continuing education and training as required by all applicable regulations; performing the above listed duties in compliance with statutory authority and applicable agency rules; providing timely and complete reports and other information and data as required; and fulfilling other responsibilities however expressed or implied by this Ordinance.

## SECTION 300.

### PERMITTING

#### 301. PERMITS REQUIRED.

- 301.1 No Person shall apply for a Permit without first obtaining all required approvals or other authorization from the Municipality in which the property is located.
- 301.2 No Person shall engage in the construction, Reconstruction, Permanent Sealing, or Annual Maintenance Permitting (including Registered Use Wells, and Unused Wells), of Wells in Dakota County without first making application for a Permit and obtaining a valid Permit from the Department pursuant to this Ordinance. Only Well Contractors currently licensed by the Minnesota Department of Health may apply for and obtain Permits unless otherwise provided by this Ordinance or applicable Minnesota Statutes or Rules. If it can be reasonably determined, a licensed contractor performing work on any existing Wells shall inform the Owner that a Well is in nonconformance or noncompliance with this Ordinance.
- 301.3 A Permit from the Department is not required for only the installation or Repair of pumps and other Well appurtenances regulated by this Ordinance, Minnesota Rules Chapter 4725 and any subsequent amendments. The Minnesota Department of Health shall License qualified individual Persons for this work. Licensed Persons shall be responsible for ensuring that all non-permitted work conforms to and complies with this Ordinance and State Rules including, but not limited to, the Disinfection and Approved testing of the Water Supply. If it can be reasonably determined, a licensed contractor performing Well Repair work shall inform the Owner that a Well is in nonconformance or noncompliance with this Ordinance.
- 301.4 The receipt of a Permit issued pursuant to this Ordinance shall not be construed as compliance with all other licenses, Permits or approvals required by the State, County or Municipality. The Department may suspend or revoke a Permit for failure to obtain all other required licenses, Permits or approvals related to the provisions of this Ordinance.

302. PROPERTY OWNERS DOING OWN WORK. Whenever allowed by this Ordinance and Minnesota Statutes Section 103I.205 and any subsequent amendments, property Owners may be Permitted to personally construct Wells, or perform limited repairs on Wells on their own properties in conformance to and compliance with all applicable regulations. Property Owners doing their own work must comply with Section 301 requiring municipal authorization, as well as all other applicable provisions of this Ordinance. However, pursuant to Minnesota Rules, Chapter 4725 and any subsequent amendments, only a licensed Well Contractor shall be Permitted to Permanently Seal a Well.

303. INDEMNIFICATION AGREEMENT. To the fullest extent permitted by Law, a Permittee shall indemnify Dakota County, its officers, employees, agents, and others acting on their behalf, to hold them harmless, and to defend and protect them, from and against any and all loss, damage, liability, cost and expense (specifically including attorneys' fees and other costs and expenses of defense), of any sort whatsoever, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings (of any sort and from any source whatsoever) brought, or any loss, damage or injury of any type

whatsoever sustained, by reason of any act or omission of a Permittee, its officers, employees or agents, or any other Person(s) or entity(ies) for whose acts or omissions, a Permittee may be legally responsible, in the performance of any of a Permittee's obligations (whether expressed or implied) under this Ordinance.

#### 304. PERMIT APPLICATION.

304.1 An application for a Permit shall be made in writing and signed by a Well Contractor licensed by the State of Minnesota or other Qualified Person. An application shall be made on forms furnished by the Department. A copy shall remain on file in the office of the Department. An application shall be Approved and the Permit issued by the Department prior to any construction, Reconstruction, sealing or other work pursuant to this Ordinance. The appropriate Permit fee, established annually by the County Board, shall accompany the Permit application.

304.2 In the event of an emergency, including inadequate Water Supply situations, during evenings, Saturdays, Sundays or holidays, licensed Well Contractors and other Qualified Persons may commence work under a temporary Permit issued verbally by the Department, or, in lieu thereof, through a temporary Permit application with emergency notification to the County Sheriff's office. The contractor or other Qualified Person shall apply for and obtain a valid Permit on the next County workday and conform to and comply with this Ordinance. This privilege shall not be extended to those contractors and other Qualified Persons who violate this provision or other provisions of this Ordinance.

304.3 The application shall contain:

- a) A legal description of the property where the Well is or will be located; and
- b) Name, address, and telephone number of the property Owner; and
- c) Plans and specifications for the proposed work in sufficient detail to enable the Department to determine their acceptability and to Approve the Permit pursuant to this Ordinance.

304.5 Notification of Sealing Temporary Monitoring Wells. A Permit is not required for the construction of a Temporary Monitoring Well if the Well will be sealed within 48 hours of construction. A sealing notification and fee is required to be submitted to the Department prior to the sealing of the Well. Well sealing records must be submitted to the Department as stated in Section 402.32 of this Ordinance.

305. APPLICATION REVIEW AND APPROVAL. If, after consideration of the application for a Permit, the Department is satisfied that the work contemplated conforms to and complies with the provisions of this Ordinance, the Department shall issue a Permit. A copy of the Permit should be kept continuously available at the work site until all work is completed by the permittee and Approved by the Department.

306. PLAN REVIEW AND APPROVAL.

306.1 All Persons who hereafter construct, reconstruct, maintain Wells through annual permits (including Registered Use Wells or Unused Wells), or permanently seal Wells and their appurtenances shall comply with this Ordinance by enclosing with the Permit application at least one complete set of plans, specifications and other documents for review and approval by the Department.

306.2 Any and all changes to the Approved Permit application must be, in turn, submitted to the Department for its review, approval, appropriate Permit amendment and annotation of the original Approved Permit.

306.3 No Well construction Permit shall be issued until all existing Wells on the property have been brought back into service or application has been made for a Permanent Sealing, or unused Permit for all existing Wells pursuant to this Ordinance

307. DENIAL OF PERMIT. The Department may deny any Permit application or renewal, or suspend or revoke any Permit for a violation of this Ordinance by the Applicant or permittee. The Department can deny any Permit application due to incompleteness or the use of an outdated Permit application. If after consideration of the application for Permit, the Department is satisfied that the work contemplated will not conform to or comply with the provisions of this Ordinance, the Department shall deny the Permit. Notice of denial shall be by letter sent to the Applicant or permittee. The notice shall state the reason for denial, suspension or revocation and shall inform the recipient of the right to appeal the denial pursuant to this Ordinance. The Permit application may be revised or corrected and resubmitted to the Department for reconsideration.

308. MUNICIPALITY AUTHORIZATION REQUIRED.

No Permit for the construction, Reconstruction, Permanent Sealing, or initial annual maintenance (including Registered Use Wells and Unused Wells), of a Well shall be issued by the Department without the required approval or other authorization of the Municipality in which the property is located.

309. PERMIT EXPIRATION. All Well construction, Reconstruction, and Permanent Sealing Permits issued by the Department shall expire after 18 months from the date of issuance, unless an earlier expiration is provided in the Permit. If the work contemplated and authorized is still in actual progress at the time of expiration, the Department may issue Permit renewal.

310. WORK NOT AUTHORIZED. No Person shall initiate or continue work on any Well after the Department has issued a written notice or order to stop work. Any notice or order given under this section shall be valid at the time of issuance and shall be posted at the work site or delivered to the affected contractor and property Owner. Any materials, equipment, supplies, or machinery used contrary to the notice or order to stop work the Department may Embargo, take possession by Seizure, examine or condemn material, equipment or machinery in order to stop work and enforce this Ordinance.

311. FEES. Permit fees, and other relevant fees, shall be recommended by the Department and Approved by the County Board.

- 311.1 Establishment of fees. Fees shall be established by December 31, of each year for the subsequent calendar year.
- 311.2 Payment of Fees. Fees shall be due and payable at the time of Permit application or within thirty (30) days of billing by the Department if otherwise applicable. Fees for any Permits required to be renewed annually shall be due and payable on the date of the initial Permit issuance. Fees may not be pro-rated for portions of a year, and fees are not refundable either in whole or in part unless otherwise authorized by the Department.
- 311.3 Nonpayment Penalties.
  - 311.31 The Department may assess additional penalty fees for nonpayment of fees, including nonpayment of Annual Maintenance Permit fees. These penalty fees shall be established and Approved by the County Board.
  - 311.32 Fees, bills, and penalties not paid within ninety (90) days of the original billing along with the late payment penalties provided may be assessed against the property Owner by certification to the County Auditor as a special tax lien against the real property.
- 311.4 Fee and Fee Penalty Exemption.
  - 311.41 In accordance with Minnesota Statutes 103I.112, the Department shall not charge Permit fees to State or local units of government, or to a subcontractor performing work for the State agency or local unit of government. However, a State agency or local unit of government still must apply for the Permit. All other applicable fees and fee penalties shall be paid if incurred.
  - 311.42 Local unit of government means a statutory or home rule charter city, town, township, County, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under Section 471.59, a board of health or community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.
- 311.5 Penalty fee for Well construction or sealing without a permit. The Department may charge a penalty fee for Wells constructed or sealed without an Approved permit. This penalty fee shall be established and Approved by the County Board.
- 311.6 Fee for service. A fee for service and other fees, as determined by the Department to be appropriate and exclusive of the aforementioned fees, shall be established and Approved by the County Board.

## 312. VARIANCES.

- 312.1 Variances require State of Minnesota approval. The Minnesota Department of Health must, first approve all variances from Minnesota Rules Chapter 4725, including Unlocatable Well Variances and Inaccessible Well Variances, pursuant to the provisions of Minnesota Rules Chapter 4725. Upon approval of the variance by the Minnesota Department of Health, the Applicant shall submit a request for variance to the Department for its consideration.

312.2 Variances - County Approval

312.21 The Department shall have authority to grant variances from the provisions of this Ordinance for new and reconstructed Wells, existing Wells and for other applicable provisions of Law when the purposes and intent of the variance are consistent with this Ordinance, the County's Comprehensive Plan and Groundwater protection strategies.

312.22 Procedure for Requesting Variance. An application for a variance shall be filed with the Department. The plans need not meet all necessary engineering or construction details as long as they contain sufficient information for the Department to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases the application must contain the same information required in Minnesota Rules Chapter 4725.0410.

Variances can not be granted "after the fact." A variance must be Approved prior to the construction. The variance request must contain the fee and information listed below. Variance requests that do not contain the required information will be returned and the variance not acted upon until the information is complete.

The application information will include, but not be limited to, the following:

- a) Name, address, and telephone number of the Applicant and permittee;
- b) The legal description of the property on which the Well is located;
- c) The names, addresses and telephone numbers of Owners of the property or any Persons having a legal interest therein;
- d) A site plan showing all pertinent dimensions, buildings, structures and significant natural features having an influence on the variance;
- e) Copies of required State, Federal and local Permits or approvals;
- f) The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for variance; and
- g) Certification of approval by the Minnesota Department of Health, if applicable.

312.23 The Department may hold a public meeting on any application for a variance. Notice of the purpose, time and place of the public meeting shall be published in a newspaper of general circulation in the town, Municipality or other areas concerned and in the official newspaper of the County at least ten (10) days prior to the date of the meeting. Written notice of a public meeting shall be mailed to all property Owners of record within five hundred (500) feet of the affected

property, and all Municipalities within two (2) miles of the affected property.

- 312.24 All administrative costs for conducting the public meeting shall be borne by the requester of the variance. Costs shall include, but shall not be limited to, expenses for public notices and assembly if incurred by the Department. A variance fee must be submitted with the variance application. This fee shall be established by the County Board. No County variance fee is required if a Minnesota Department of Health variance fee has been paid.
- 312.25 Any aggrieved Person or Persons, whose application for a variance has been denied, shall have the right to appeal within thirty (30) days as provided in Section 500 of this Ordinance.
- 312.26 No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of denial, except on the grounds of new evidence or proof of change on conditions found to be valid.
- 312.27 A violation of any condition set forth in a variance shall be a separate violation of this Ordinance and shall be cause for the Department to terminate the variance effective on the date of the violation. The Department shall take reasonable steps to notify the Well Owner of all violations.
- 312.28 The Department shall not grant any variance unless it finds the following facts:
- (a) That there are special circumstances or conditions affecting the land, building or use referred to in the variance application, public hearing, or appeal that do not apply generally to other property in the same vicinity; and
  - (b) That the granting of the variance will not adversely affect the health or safety of Persons residing or working in the area adjacent to the property, will not be materially detrimental to the public welfare or damaging to property or improvements in the area adjacent to the property, and will not alter the water quality or quantity of the affected Aquifers.
- 312.29 If additional information becomes known, which may affect a previously granted variance, the Department may reconsider and amend specific conditions attached to a variance provided that they are consistent with the general purposes and intent of this Ordinance, Comprehensive Plan and Groundwater protection strategies, and provided that they are approved by the Minnesota Commissioner of Health pursuant to Section 312.1 of this Ordinance.

SECTION 400.

**REGULATION, VIOLATION, AND ENFORCEMENT**

401. GENERAL REQUIREMENTS.

- 401.1 Violation. For violations of this Ordinance, the County may take the following actions: issuance of citations and misdemeanor prosecutions, issuance of civil proceedings, suspension, revocation, Seizure, Embargo, condemnation, and tagging.
- 401.2 Failure to Comply. Any Person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by Law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- 401.3 Civil Actions. In the event of a violation or a threat of violation of this Ordinance, the County may also institute other appropriate civil actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate violations or threatened violations. If the County is required, it may recover the cost to seal a Well in a civil action in any court of competent jurisdiction or at the discretion of the Board.
- 401.4 Regulation. The Department shall regulate all construction, Reconstruction, Repair, Permanent Sealing, and annual maintenance (including Registered Use Wells, or Unused Wells), of Wells and Water Supplies in Dakota County pursuant to this Ordinance. Regulation includes, but shall not be limited to, Well Inspections, Sanitary Surveys of Water Supplies, complaint investigations, plan reviews, Water Supply testing and Well/borehole logging. County expenses exceeding Permit fees may be charged to the current property or Well Owner in accordance with County Board policy, unless otherwise provided by this Ordinance.
- 401.5 Costs. All costs for the regulation and enforcement of Well construction, Reconstruction, Repair, Permanent Sealing, and Annual Maintenance Permitting including Registered Use and Unused Wells, shall be borne by the current property or Well Owner, unless otherwise provided by this Ordinance, who shall pay costs within thirty (30) calendar days from the date of billing. Failure to pay costs billed shall cause the Department to use remedies as provided by this Ordinance or Law.
- 401.6 Access to Premises and Records. Upon the request of the Department, the Applicant, permittee or any other Person shall allow access at any reasonable time to the affected premises, as well as any related records and any associated personal property, for the purposes of regulating and enforcing this Ordinance.
- 401.7 Interference Prohibited. No Person shall hinder nor otherwise interfere with the Department, its Environmental Specialists or its designated agents in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the Department shall be deemed a separate and distinct violation of this Ordinance, whether or not any other specific violations are cited.
- 401.8 Additional Requirements. The Department may establish policies, procedures, guidelines and other requirements for regulating and enforcing this Ordinance.

When adopted by the County Board, these policies, procedures and guidelines shall be incorporated herein and made a part of this Ordinance. For the purpose of this Ordinance, "immediate" compliance shall mean within 24 hours of the receipt of written or verbal orders for the correction of conditions unless an imminent threat to public health and safety requires an emergency response and more timely action which shall then be stated in the written or verbal orders.

## 402. INSPECTIONS AND RECORDS.

### 402.1 Inspections.

- 402.11 The Department may inspect, collect water samples, and have access, at all reasonable times, to a Well site, including Wells drilled, sealed, or repaired.
- 402.12 The Department may inspect Wells as frequently as it determines necessary to ensure compliance with this Ordinance including reinspections as needed to verify the correction or removal of any violations. Written Notices of Violation, including the requirement for their correction or removal and the time schedule for compliance will be delivered in person or by mail to the Applicant, permittee or other responsible Person.
- 402.13 Failure to conform to and comply with written orders or a citation for the correction or removal of each violation shall constitute a separate and distinct offense regardless of the disposition of the original violation.

### 402.2 Notification for Inspection.

- 402.21 It shall be the duty of the Well Contractor, Licensee, or other permittee to give reasonable notice to the Department in Person, by telephone, or in writing, as well as to retain a record of notification for the following activities:
  - a) When construction, Reconstruction, or sealing procedures will begin; or as required by the Department.
  - b) Whenever significant problems develop that in the contractor's, Licensee's, or other permittee's opinion requires technical assistance, other advice, or action.
- 402.22 The notice required by Section 402.21, shall be provided during normal County work hours on the workday preceding the day that the construction, Reconstruction, sealing or other specified activities is scheduled to occur, excluding evenings, Saturdays, Sundays or holidays. In the event of an emergency during evenings, Saturdays, Sundays or holidays, Well Contractors and other permittees shall give emergency notification to the County Sheriff. The contractor or other permittee must contact the Department on the next County workday to explain the notification. If adjustments of the specific Inspection time are necessary, the final notice shall be given not less than one work hour before a Well was originally scheduled for Inspection unless otherwise Approved by the Department.

Notification for Inspection by the Well Contractor or other permittee shall not be construed as an obligation by the Department to appear for an Inspection unless prearranged by the inspector at least 24 hours before the inspection time.

402.3 Records.

402.31 Record Maintenance and Access for Review. Pursuant to Minnesota Rules, Chapter 4725, Wells and Borings, and any subsequent amendments, Well Contractors and other Qualified Persons shall maintain all necessary books, reports and records, and shall allow access to all of these records at any reasonable time upon the request of the Department. Non-permanent records shall be maintained for a period of three years unless otherwise required.

402.32 State-Approved Records. A complete and accurate original and local copy of the Minnesota Department of Health water Well record, Well sealing record or other Approved record form shall be submitted by the contractor or other permittee to the Department within thirty (30) days of completion of any construction, Reconstruction, or Permanent Sealing of a Well or Water Supply.

402.33 Water Tests and Other Reports. As required by this Ordinance, the permittee or other responsible Person shall provide all water tests and other reports to the Department and other designated Persons within thirty (30) days of completion of any construction, Reconstruction or Permanent Sealing of a Well or Water Supply.

402.34 Noncompliance. Failure of the Well Contractor or other permittee to maintain required records, books and reports, allow reasonable access or submit Approved records and other reports is a violation of this Ordinance and shall be sufficient cause for the Department to commence appropriate enforcement procedures to ensure compliance.

403. WARNING NOTICE AND NOTICE OF VIOLATION. A Warning Notice or a Notice of Violation, as defined in Section 104 of this Ordinance, may be issued to the Person alleged to have committed a violation of this Ordinance. A Warning Notice and a Notice of Violation shall serve to place the Person alleged to have committed a violation on notice that compliance with specified County Ordinance requirements must occur to avoid additional enforcement actions.

Unresolved and either separate, recurring or continuing violations of this Ordinance by an Applicant, permittee, contractor or any other Person, as determined by Inspections, reinspections, investigations or other means, shall constitute nonconformance or chronic noncompliance and, therefore, shall require the serving of a Warning Notice or a Formal Notice of Violation, either in person or by certified or registered mail. Warning Notices or Notices of Violation shall contain statements documenting the findings of fact, listing the specific violations, detailing the requirements for the correction or removal of the violations, imposing a mandatory time schedule for compliance and assessing penalties and other remedies.

404. COLLECTION AND TESTING OF SAMPLES. The Department may require the collection and testing of water samples, other environmental samples, and specimens from a Well, Water Supply or other related location, operation or device. The Department

may require the Well Owner to pay for this collection and testing. The Department may require this as often as may be necessary to protect the environment and promote the public health, safety and general welfare.

County Approved methods for the collection and testing of water samples, and other environmental samples or specimens shall be utilized, and a copy of the laboratory's report shall be provided to the responsible Person.

405. SEIZURE, EMBARGO, CONDEMNATION AND TAGGING. The Department may seize, Embargo or condemn any Well or its appurtenances; Well construction, Repair or sealing equipment, supplies and machinery; or other materials, devices, products or services which do not meet the requirements of this Ordinance and whose continued use or presence may pose a potential or imminent threat to the environment or to public health, safety or welfare. Seized or Embargoed items may be examined or otherwise evaluated by the Department to determine conformance to or compliance with the provisions of this Ordinance. Upon evaluation, the Department shall determine if these items may be released from Seizure or Embargo. The Department may condemn and cause to be properly sealed, removed or destroyed any item which does not conform to or comply with this Ordinance, which is being used or is present in violation of this Ordinance or which is otherwise determined to be unsuitable. The Department may place a red tag or cordon to indicate the Seizure or Embargo of any item. No Person shall remove the tag, cordon or other identification under penalty of this Ordinance, except under the specific direction of the Department.

406. CITATIONS.

406.1 Authority for Citations. The Department or any of its duly authorized agents having the responsibility of regulation and enforcement of this Ordinance shall have power to issue citations for violations of this Ordinance. This shall not permit these agents to physically arrest or take into custody any violators except under a warrant duly issued by the District Court.

406.2 Form of Citation. Citations shall contain at least the following:

- a) The name, address and telephone number, if available, of the Person alleged to have committed the violation;
- b) The name, address and telephone number, if available, of the Owner or Person in charge of the premises at which the violation occurred;
- c) The date, time and place of the violation;
- d) A short description of the violation followed by the section of the Ordinance violated;
- e) The date and place at which the Person receiving the citation shall appear, and a notice provided that if the Person does not respond, a warrant may be issued for the Person's arrest;
- f) The name of the Person issuing the citation; and
- g) Other information as the Court may specify.

406.3 Writing of Citations. Whenever any designated agent of the Department discovers any violation of this Ordinance, the agent may write and issue a

citation to the Person alleged to have committed the violation. Citations shall be made out in quadruplicate (4). One copy thereof shall be issued to the Person alleged to have committed the violation; one copy shall be filed with the Department; one copy shall be filed with the Dakota County Attorney; and one copy shall be filed with the District Court, First Judicial District.

- 406.4 Issuance of Citations. The citation shall be issued either by personal Service or by registered or certified mail to the Person alleged to have committed the violation, or in the case of a corporation or Municipality, to any officer or agent expressly or otherwise authorized to accept the citation.
- 406.5 Appearance. The Person charged with the violation shall appear at the place and on or before the date and time specified in the citation, and the Person shall either:
- a) Pay the scheduled or Court-assigned fine for the violation cited; or
  - b) Schedule a date and time for a Court hearing on the citation.
- 406.6 Summons and Complaint. If the Person charged with the violation fails to appear as required by the citation, the citation shall be referred to the Dakota County Attorney for issuance of a summons and complaint to compel court appearance to resolve the original violation charged, as well as violation of Section 402.13, if applicable.

#### 407. SUSPENSION AND REVOCATION

- 407.1 Suspension. Any Permit required under this Ordinance may be suspended by the Department for violation of any provision of this Ordinance. The Permit suspension will be enforced until the permittee has demonstrated compliance with this Ordinance.
- 407.11 If the Department determines that there is an imminent threat to health and the environment, the Department may require summary suspension. If a hearing is requested, under Section 500 of this Ordinance, suspension shall not occur until written notice of the Department action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the Permit application. Written notice of the suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the permittee desires to appeal, he must within ten (10) County working days, exclusive of the day of Service, file a request for hearing. The hearing request shall be in writing stating the grounds for appeal and be served personally or by registered or certified mail on the Department no later than midnight of the tenth County working day following Service as defined in section 104.47 of this Ordinance. Following receipt of a request for a hearing, the Department shall set a time and place for hearing.
- 407.12 The Department may initiate revocation procedures if the Permit suspension is not remedied within 60 days.
- 407.2 Summary Suspension.

- 407.21 If the Department finds that an imminent threat to the environment or to public health, safety or welfare requires emergency action, and incorporates a finding to that effect in its order, the Department may order summary suspension of the Permit. The Department shall notify the County Attorney's Office of summary suspension actions. Written notice of summary suspension shall be served on the permittee, personally or by registered or certified mail at the address designated in the Permit application. In addition, the Department may post copies of the notice of summary suspension of the Permit on the property.
- 407.22 The written notices shall state the effective date of the suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the permittee desires to appeal he must, within ten (10) County working days, exclusive of the day of Service as defined in Section 104.47, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and is served personally or by registered or certified mail on the Department no later than midnight of the tenth County working day following Service. Following receipt of a request for an appeal, the Department shall set a time and a place for the hearing.
- 407.23 The Department shall not stay the summary suspension pending an appeal or informal review. However, the Department may reinstate the Permit upon a reinspection that indicates that there is no longer an imminent threat to health and safety.
- 407.3 Suspension Reinspections. Upon written notification from the permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the Department shall reinspect the Well or activity within a reasonable length of time, but in no case more than five (5) County working days after receipt of the notice from the permittee. If the Department finds upon reinspection that the violations constituting the grounds for the suspension have been corrected or removed, the Department shall immediately dismiss the suspension by written notice to the permittee, designated in the Permit application.
- 407.4 Revocation.
- 407.41 Any Permit granted pursuant to this Ordinance may be revoked by the Department for violation of any provisions of this Ordinance.
- 407.42 Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation is served on the permittee. Written notice of the revocation shall be served on the permittee, personally or by registered or certified mail at the address designated in the Permit application. In addition, the Department may post copies of the notice of the revocation on the property. If a hearing is requested, revocation shall not occur until written notice of the Department action has been served on the permittee. A written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the permittee desires to appeal, he must within ten (10) County working days, exclusive of

the day of Service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department no later than midnight of the tenth County working day following Service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing.

408. MISDEMEANOR PENALTY. Any Person who fails to conform to or comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor as provided by Minnesota Statutes Sections, 1031.715 and 375.53 and any subsequent amendments, and upon conviction thereof, shall be punished as provided by Law. A separate offense shall be deemed committed each day during or upon which a violation occurs or continues.
409. INJUNCTIVE RELIEF AND OTHER REMEDIES. In the event of a violation or a threat of violation of this Ordinance, the Department may institute appropriate civil actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate these violations or threatened violations. The Department may recover costs incurred for corrective action in a civil or criminal action in any court of competent jurisdiction. These and other remedies, as determined appropriate by the Department, may be imposed upon the Applicant, permittee, contractor or other responsible Person either in addition to or separate from other enforcement actions.

## SECTION 500.

### HEARINGS.

501. **REQUEST FOR HEARING.** If any Applicant or permittee properly requests a hearing on the denial, suspension, or revocation of Permit, or denial of a variance, the hearing shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.
502. **HEARING DATE.** Unless the County Board grants an extension of time pursuant to a written request submitted by the appellant to the Chair of the County Board, the hearing will be held no later than forty-five (45) calendar days after the date of Service of request for a hearing, exclusive of the date of the Service. In any event, the hearing shall be held no later than ninety (90) calendar days after the date of Service of request for a hearing, exclusive of the date of the Service.
503. **NOTICE OF HEARING.** The County Board shall mail notice of the hearing to the appellant and to the Department at least fifteen (15) working days prior to the hearing. This notice shall include:
- 503.1 A statement of the date, time, place and nature of the hearing;
  - 503.2 A statement of the legal authority and jurisdiction under which the hearing is to be held; and
  - 503.3 A reference to the particular section of the Ordinance and rules involved.
504. **HEARING EXAMINER.** The County Board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject parts or all the report.
505. **CONDUCT AND RULES OF THE HEARING.**
- 505.1 The Applicant or permittee and the Department may be represented by counsel. The Department, the permittee or Applicant, and additional parties, as determined by the County Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
  - 505.2 If the Applicant or permittee fails to appear at the hearing, the right to a public hearing before the County Board or hearing examiner is forfeited.
  - 505.3 The Department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive Law, and all findings of fact, conclusions, and decisions by the County Board shall be based on evidence presented and matters officially noticed.

- 505.4 All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent Persons are accustomed to rely in the conduct of their serious affairs. Evidence, which is incompetent, irrelevant, immaterial or unduly repetitious, may be excluded. The hearing shall be confined to matters raised in the Department's written notice of suspension, summary suspension, and revocation or variance denial or in the appellant's written request for a hearing.
- 505.5 At the request of any party, or upon the direction of the County Board or hearing examiner, a pre-hearing conference shall be held. A designated representative of the County Board shall conduct the pre-hearing conference or the hearing examiner, if the County Board has chosen to use one. The pre-hearing conference shall be held no later than five (5) County working days before the hearing. The purpose of the pre-hearing conference is to:
- a. Clarify the issues to be determined at the hearing;
  - b. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction; and
  - c. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
- 505.6 If a pre-hearing conference is held, evidence not disclosed as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to disclose it to all parties prior to the hearing and:
- a. The evidence was not known to the party at the time of the pre-hearing conference; or
  - b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

## SECTION 600.

### STANDARDS

601. CONSTRUCTION STANDARDS. Well construction, Reconstruction, Repair, Permanent Sealing, and Annual Maintenance Permitting including Registered Use, or Unused Wells, shall meet the standards of Minnesota Rules, Chapter 4725, Water Well and Borings and any subsequent amendments, and this Ordinance. The Department shall provide specific guidelines to interpret standards and clarify requirements of this Ordinance as set forth in Section 202.
- 601.1 Potable Water. The only acceptable type of Well construction for a Potable Water Supply shall be a cased and grouted Well or, where allowed by this Ordinance, only a cased Well, provided that the construction protects the Water Supply and the Groundwater from contamination or resource depletion.
- 601.2 Nonpotable Water. Well Contractors and other permittees shall utilize those construction standards for nonpotable Water Supply and other Wells which afford the greatest protection to Groundwater quality and quantity and which equal or exceed the requirements of this Ordinance. A Well constructed as a nonpotable Water Supply shall not be converted for use to a Potable Water Supply unless and until it is reconstructed to conform to the construction standards for a Potable Water Supply and is Approved by the Department.
- 601.3. Unique Well Number. The Well Contractor, Licensee, other Qualified Person or the Owner shall affix the assigned Unique Well Number to a Well for permanent identification to be applied to the Well's sanitary cap, exposed casing, riser pipe or other readily visible and permanent location as Approved by the Minnesota Department of Health and the Department.
- 601.4. Additional Requirements. For the purpose of protecting Groundwater and the environment and promoting public health, safety and general welfare, the Department may impose additional requirements consistent with the intent of this Ordinance and with the concurrence of the Minnesota Department of Health for the construction, Reconstruction, inventory, Repair, Annual Maintenance Permitting including Registered Use, Unused Wells and Permanent Sealing of Wells, their appurtenances and Water Supplies.
602. WATER QUALITY STANDARDS.
- 602.1 Standards Adopted. The Maximum Contaminant Levels (MCL) established for public community and non-community Water Supplies, Health Risk Limits (HRL), their amendments and additional standards, or other criteria adopted by the Minnesota Department of Health and approved by the Commissioner of Health shall apply to appropriate Wells and their Potable Water Supplies in Dakota County. These standards shall also apply to nonpotable Water Supply Wells whenever the Department deems it necessary to protect the Groundwater and the environment and to promote public health, safety and welfare.
- 602.2 Test Methods.
- 602.21 The biological analysis of water samples and related specimens shall be conducted in accordance with acceptable methods including Standard Methods or other Approved Testing Methods. For the

microbiological testing of fecal indicator and pathogenic bacteria and other microbes, the testing laboratory and laboratory personnel performing the test shall be currently certified, if applicable, by the Minnesota Department of Health. An Approved quality assurance - quality control program shall be maintained by the testing laboratory which certifies to the accuracy and precision of the test results.

602.22 The physical, chemical and radiological analysis of water samples and related specimens shall be conducted in accordance with acceptable Standard Methods, Environmental Protection Agency Methods or other Approved Testing Methods. The testing laboratory and laboratory personnel shall be properly equipped and trained respectively to perform these tests and shall maintain an Approved quality assurance - quality control program which certifies to the accuracy and precision of the test results. The testing laboratory shall be currently certified, if applicable, by the Minnesota Department of Health for the Safe Drinking Water Program parameters analyzed.

602.23 For the purpose of obtaining an on-site evaluation of water quality for Well construction, Repair and sealing activities, as well as for Inspections, surveys and investigations by the Department, Approved field test methods and instruments may be utilized with the approval of the Department. Whenever deemed appropriate by the Department or otherwise required by this Ordinance, test results so obtained shall be verified by Approved laboratory test methods pursuant to Sections 602.21 and 602.22 considering the precision and accuracy of the tests.

602.3 ACCEPTANCE STANDARDS. The following acceptance standards shall apply to the construction, Reconstruction, and Repair of Wells utilized for Potable Water Supplies and shall also apply to a Potable Water Supply located on real property that is part of a Property Transaction unless otherwise Approved by the Department or unless otherwise provided by this Ordinance:

602.31 Coliform Bacteria. Organisms of the coliform bacteria group in colony forming units of one (1) or more membrane filter colonies (MFC) per 100 milliliters, or 2.2 or more most probable number (MPN) per 100 milliliters, or present in a presence-absence test per 100 milliliters in a water sample shall be considered indicative of pollution. For the purposes of this Ordinance, the presence of only non-coliform bacteria in a water sample shall not necessarily be indicative of pollution but may cause the Department to require additional testing of the Water Supply, whether or not Disinfection is required, to determine the absence or presence of fecal indicator or pathogenic microorganisms.

602.32 Nitrate and Other Forms of Nitrogen. For new Well construction or Reconstruction, nitrate-nitrogen exceeding ten (10) milligrams per liter present in a water sample is considered indicative of contamination and, therefore, nonpotable. An existing Potable Water Supply Well located on real property that is part of a Property Transaction shall not exceed ten (10) milligrams of nitrate-nitrogen per liter. For the purposes of this Ordinance, the presence of significant concentrations of organic nitrogen, ammonia-nitrogen or nitrite-nitrogen in a water sample may be indicative of contamination regardless of the presence or absence of nitrate-nitrogen and may

cause the Department to require additional testing of the Water Supply.

602.33 Other Contaminants of concern as determined by the Department

602.4 New and Reconstructed Wells.

602.41 The acceptability of a Well terminated or completed in any water-bearing formation (Aquifer) encountered is dependent upon the Water Supply and water quality. Water quality standards for coliform bacteria and nitrate-nitrogen are referenced in the above section for a Potable Water Supply. In considering the acceptability of a Potable Water Supply, the Department shall review all applicable test results and the quality assurance and quality control of the tests.

602.42 Prior to completing the construction or Reconstruction of the Well in the Aquifer as permitted, the contractor shall arrange for the timely testing of the water for nitrate-nitrogen and/or other water quality parameters. The Department may require the collection of a duplicate sample to be submitted to its laboratory for analysis. In no case, however, shall the contractor allow an incompletely constructed or reconstructed Well that is without protective casing or grout to provide a pathway for surface or subsurface Contaminants to migrate and degrade Groundwater for the purpose of complying with this provision.

602.43 If the nitrate-nitrogen concentration of the water sample before Well completion equals or exceeds five (5) milligrams per liter but does not exceed ten (10) milligrams per liter, and all other applicable tests are acceptable and other factors indicate that the nitrate-nitrogen concentration in the finished Well will be no more than ten (10) milligrams per liter the Well Contractor may complete the Well. However, the Well Contractor must notify the Well Owner that the water analysis indicates a concentration equal to or greater than five (5) milligrams per liter of nitrate-nitrogen and that a nitrate-nitrogen level less than five (5) milligrams per liter is desirable and that levels higher than this concentration may indicate potential Groundwater contamination with possible health effects from consumption. The water quality standard for nitrate-nitrogen is equal to or less than ten (10) milligrams per liter for human consumption.

603. INJECTION WELLS. No Well shall be used for the injection of any Approved substance or material unless specifically approved by the Minnesota Department of Health. Any injection method must also be Approved and permitted by the Department and conditioned upon the protection of Groundwater quality and quantity. However, the injection or disposal of any harmful substance or waste in a Well, other borehole, recharge basin or excavation coming under this Ordinance, including the United States Environmental Protection Agency Class I and IV injection Wells, shall be strictly prohibited. An unpermitted injection Well shall be terminated. The property or Well Owner shall be responsible for having the unpermitted injection Well tested and otherwise evaluated, properly remediated and sealed, and, if applicable, the affected Groundwater shall be monitored for Contaminants and consequently restored if determined by the Department to be contaminated.

## SECTION 700

### PROPERTY TRANSACTION

701. **WELL DISCLOSURE FOR PROPERTY TRANSACTIONS.** It shall be the duty of every property Owner prior to a Property Transaction, to disclose the location, condition, water quality and the measures to be taken to bring into conformance with this Ordinance all new and existing Wells and Water Supplies on the property. A Potable Water Supply that was in existence before the effective date of this Ordinance and that is on real property that is part of a Property Transaction shall be required to meet the water quality standards pursuant to this Ordinance. Water analysis must be performed by a Minnesota Department of Health certified laboratory using Approved methods within 6 months prior to a property sale.
702. **WELL DISCLOSURE CERTIFICATE.** Minnesota Well Disclosure Certificate. It shall be the duty of every property Owner to complete a Well disclosure certificate for all Wells on the property and file the certificate with the County Recorder as required by Minnesota Statutes Section 1031.235 and any subsequent amendments.
703. **WATER QUALITY STANDARDS FOR EXISTING POTABLE WATER SUPPLIES.** All existing potable Well Water Supplies that are part of a Property Transaction must be tested according to the following requirements:
- 703.1 Private Water Supply Wells must be tested by a Minnesota Department of Health certified laboratory using Approved methods within 6 months prior to a Property Transaction. Samples for Property Transaction must be collected by an independent third party using appropriate sample collection procedures.
  - 703.2 Water Supply Wells that are the primary Water Supply and are part of a Property Transaction must meet applicable drinking water standards as defined in the Ordinance (Section 602).
  - 703.3 Water Supply Wells that are the primary Water Supply and do not meet drinking water standards and are part of a Property Transaction must have a replacement Potable Water Supply. This may include a new Well, connection to an alternate Potable Water Supply, or Approved Water Treatment.
  - 703.4 Approved Water Treatment must be done in accordance with manufacturer instructions and intentions for treatment methods and devices. In the case of water treatment, samples must be collected from the treated and untreated portions of the Water Supply and tested to show removal of Contaminants of concern to within acceptable drinking water levels (see Section 602). Water treatment devices must be maintained according to manufacturer instructions and used in a manner consistent with manufacturer intentions. The seller must disclose the use of a treatment device or method.
704. **UNUSED WELLS.** At the time of a Property Transaction all Unused Wells must be permanently sealed as required in Section 1100 of this Ordinance. If the Well is not permanently sealed, the Well must be permitted as required in Section 1200 of this Ordinance, or be brought back into working condition and used if the use of the Well does not pose a threat to the quality or quantity of Groundwater.

## SECTION 800.

### ADVISORIES

801. **ADVISORIES.** The Department, County Board, Minnesota Department of Health, or other identified agencies regulating Groundwater may issue restrictions which may modify, limit or otherwise prohibit certain Wells by location, type, use or other description in order to protect the environment and Groundwater quality or quantity and to promote public health, safety and welfare. The Department shall evaluate recommendations, determine needs and impacts, and issue, upon the review and approval of the Minnesota Department of Health, Well advisories to the public, Municipalities, contractors and other Persons.

## SECTION 900.

### DISINFECTION

901. **DISINFECTION REQUIRED.** Whenever a Well or any component of a Water Supply system is constructed, Reconstructed, Repaired or replaced, the Well, its appurtenances and the Water Supply system shall be properly disinfected utilizing chemical agents and methods Approved by the Department and the Minnesota Department of Health prior to the Well and Water Supply system being placed into service as a Potable Water Supply or other use coming under this Ordinance, except as otherwise specifically provided. Wells that are permitted under an Annual Maintenance Permit, including Unused Wells or temporarily sealed Wells may be required by the Department to be disinfected and tested as a condition of the Permit. Acceptable disinfectant agents free and combined residual concentrations, contact times and other specifications and methods shall be Approved by the Department.
902. **RETESTING FOR ACCEPTANCE.** Upon completion of Approved Disinfection and discharging of the Well and Water Supply system to a wastewater system or other Approved disposal to achieve an undetectable residual concentration of the disinfectant, the water shall be sampled and analyzed for the presence of coliform bacteria. The presence of members of the coliform bacteria group shall require that the Disinfection of the Well and Water Supply system until the water quality is deemed acceptable.

SECTION 1000.

**USE OF EXISTING WELLS FOR NEW CONSTRUCTION**

1001. **EXISTING WELL USE.** An existing Well may be used as a source of potable or nonpotable Water Supply for any new building or structure intended for permanent or transient human occupancy or other Approved use if the Well is constructed to meet the minimum standards of this Ordinance, the water quality is deemed acceptable by the Department, and the Municipality authorizes the use.
1002. **EXISTING WELL STANDARDS.** An existing Well which does not meet the minimum construction standards required by this Ordinance may be Approved as a source of potable or nonpotable Water Supply for a building, structure or other use if the Municipality authorizes the use and the property or the Well Owner can prove to the satisfaction of the Department that:
- a. The water from the Well will meet the water quality standards established by this Ordinance and, if the Water Supply is for potable use, the water will meet the acceptance standards of Section 602.3 of this Ordinance; and
  - b. The use of the Well either now or in the future will not present a threat to the quality or quantity of the Groundwater resource or a possible threat to public health as determined by the Department.

## SECTION 1100.

### WELL SEALING

1101. **STANDARDS ADOPTED.** Minnesota Rules Chapter 4725, and any subsequent amendments, govern the sealing of Wells in Dakota County, except as otherwise provided herein.
1102. **UNUSED WELLS DEFINED.** For purposes of the regulation and enforcement of this Ordinance, a Well is defined as an Unused Well if, based upon either knowledge or Inspection of the Well and site or based upon an analysis of water from the Well, any one of the following conditions exist:
1. Use of the Well has been terminated;
  2. The Well is unusable or in disrepair, or it is not equipped with an operable pump;
  3. The Well has been improperly capped or sealed or is plugged or filled with unapproved materials;
  4. The Well is located, constructed, reconstructed, operated, maintained, repaired, sealed or permitted as an annual maintenance Well, in a manner that endangers the quality or depletes the quantity of the Groundwater, that it is or may become a distinct health or safety hazard to Persons consuming or otherwise using water from the Well or that its physical existence constitutes a safety hazard (i.e., someone could fall into it) or that it is in nonconformance or noncompliance with any provision of this Ordinance; or
  5. The Well is a nonconforming open Well or injection Well.
1103. **WELL SEALING STANDARDS.** The Department is authorized to take steps necessary to inventory, locate, identify, test, log, prioritize, and require sealing, or require remediation of Wells within the County.
- 1103.1 **Public Nuisance Wells.** The existence of an improperly sealed, unused, or nonconforming open Well, injection Well, or any other Well that is an actual or potential threat to the Groundwater used by the public for Potable Water Supplies is a Public Nuisance. In cases of an imminent threat to public health and safety, the compliance time for corrective actions, including Permanent Sealing, may be reduced accordingly to thirty (30) days or less to protect the Groundwater and public health and safety, as required by the Department.
- 1103.2 **Property Owner Responsibilities.** It shall be the duty of every property Owner prior to a Property Transaction as defined in Section 104.25, to disclose the location of all Wells on the property to be transferred. The disclosure shall include the condition of the Wells and the measures to be taken to bring any Wells into conformance with this Ordinance including Permanent Sealing, bringing the Well back into use through Reconstruction, or verifying the condition and status with an Annual Maintenance Permit application. All Wells on a property shall be documented on the State Well disclosure certificate and filed with the County Recorder as required by Minnesota Statutes Section 1031.235 and any subsequent amendments.

- 1103.3 Upon discovery of an Unused Well resulting from a Property Transaction, the Department shall require the property or Well Owner to properly seal, reconstruct, or to verify the condition and status annually through a maintenance Permit in accordance with this Ordinance and State code. The property or Well Owner shall comply within ninety (90) days from the date of receipt of written orders from the Department.
- 1103.4 If the Owner does not comply with Department orders within 90 days, the County may contract with a licensed Well Contractor to have the Well properly sealed or reconstructed.
- 1103.5 Any expenses incurred by the County in properly sealing, testing, logging, reconstructing or otherwise remediating any Well shall be the responsibility of the property or Well Owner. If any of these associated costs are not paid, the Department may recover these costs in any court of competent jurisdiction and the cost as sealing a Well may be assessed the Well Owner.
- 1103.6 The Owner of an Unused Well located on a commercial or industrial property, or any property other than a residential property, shall seal, put back into use, or the Owner shall obtain an Annual Maintenance Permit within ninety (90) days of written notification by the Department.
- 1103.7 The Department may require immediate Permanent Sealing of the Well upon discovery of any Unused Well as defined in Section 1102, that is determined to be an Imminent Threat to Health and Safety.
1104. ADDITIONAL REQUIREMENTS. The Department may impose additional requirements for the proper sealing of Wells, which shall be the responsibility of the property or Well Owner, including the following:
- 1104.1 *Water Quality Tests.* Those Wells to be sealed that are not in use shall be examined for coliform bacteria, nitrate-nitrogen and other water quality parameters of concern at the discretion of the Department. The Department may require additional Approved testing, as defined in Section 104.4, to determine if remedial measures are necessary before sealing any Well.
- 1104.2 *Measurements.* The Static Water Level, casing depth, and the Well depth and diameter shall be measured and reported before sealing any Well. Wells penetrating confining layers between Aquifers shall be subject to careful examination including measurement, borehole logging and testing to ensure their complete sealing.
- 1104.3 *Other Well Information.* Depending upon the type, location, construction, operation, maintenance and use of any Well to be sealed, the Department may require that the Well be evaluated through borehole video, mechanical or geophysical logging techniques or by any other Approved method to ensure that the Well will not continue to pose a nuisance or an actual or potential threat to Groundwater resources after it is sealed.

## SECTION 1200.

### ANNUAL MAINTENANCE PERMITS

1201. PERMITS REQUIRED. Annual Maintenance Permits shall be required for all registered use, and Unused Wells to ensure compliance with this Ordinance, to protect Groundwater resources, to verify testing and Approved operation and to expedite Permanent Sealing upon disuse or Permit termination.
1202. UNUSED WELL PERMITS.
- 1202.1 At the time of Property Transaction, Owners of Wells defined as unused in Section 1102 shall 1) seal the Well, or 2) have the Well brought back into use to meet the definition of a Reclaimed Use Well, or 3) apply for an Unused Well Permit from the Department, to be renewed annually by the subsequent property Owner (or Well Owner if different than property Owner) based upon the date of the original Permit. However, an Unused Well Permit may not be issued or renewed if the Well is subject to any condition described in Section 1102 parts 3,4,or 5. Pursuant to this Ordinance, no Permit shall be issued without municipal authorization or, if applicable, Minnesota Department of Health approval. Owners shall conform to and comply with all conditions and terms of an Unused Well Permit. If the conditions or terms of an Unused Well Permit are violated, the Permit may be suspended or revoked.
- 1202.2 If the Well is found by the Department to be subject to any condition described in Sections 1102 parts 3,4,or 5, the Unused Well Permit shall be revoked upon receiving written notice from the Department. Within ninety (90) days after receiving notification, the Well Owner must either 1) seal the Well, or 2) have the Well brought back into use to meet the definition of a reclaimed Well, or 3) remedy the condition and reapply for an Unused Well Permit from the Department to be renewed annually by the Well Owner based upon the new date of the subsequent Unused Well Permit.
- 1202.3 Any Well for which a Permit is issued or renewed pursuant to this Section may be inspected and examined at the discretion of the Department. The Water Supply may be sampled and analyzed for coliform bacteria, nitrate-nitrogen and other water quality parameters to be determined by the Department prior to initial Permit issuance or thereafter.
- 1202.4 The Owner of a reclaimed Well shall ensure that there is no cross-connection with another Water Supply, that backflow and backsiphonage prevention methods or devices are utilized, that the Well does not present a threat to the quality or quantity of the Groundwater resources and that upon disuse the Well is permanently sealed, or its condition and status verified annually through a maintenance Permit pursuant to this Ordinance.
1203. REGISTERED USE WELL PERMITS.
- 1203.1 Owners of new Wells that are defined as Registered Use Wells in Section 104.43, shall apply for a Registered Use Well Permit from the Department. Registered Use Well Permits shall be renewed annually based upon the date of the original Permit. Monitoring Wells, Dewatering Wells, and other Wells shall be permitted within fourteen (14) months of their construction if not permanently sealed.

- 1203.2 Owners of existing Wells that are defined as Registered Used Wells in Section 104.43, shall apply for a Registered Use Well Permit from the Department within 30 days of the Departments' request for a Permit. The Permit shall be renewed annually based upon the approval date of the first registered used Well Permit submittal.
- 1203.3 At the time of Permit application or renewal, the Well Owner shall provide the Department with all test data collected from the Well or from the previous annual registered use Permit application. The Department may specify the format of the test data. Static Water Level elevation measurements are required. If the water levels are measured to a local datum, the elevation of the local datum must be provided. A scaled site map with the location of the Well, labeled with the Unique Well Number is required. If local identification of the Well is used in any of the data, then a table of corresponding Unique Well Numbers must be provided. The Department may impose a surcharge for an incomplete application or missing data. This surcharge shall be established by the County Board.
- 1203.4 Owners of existing and new Registered Use Wells shall conform to and comply with all provisions of this Ordinance including, when applicable, approvals from local and State governmental agencies regulating special purpose Wells, periodic testing or measurements, maintenance and repairs, and cross connection, backsiphonage and backflow prevention. Owners shall comply with all conditions imposed by the Permit, or the Permit may be suspended or revoked.
- 1203.5 Registered Use Wells must comply with Minnesota Rules 4725.6755, Protection of Monitoring Wells, regardless of the age of the Well.
- 1203.6 Registered Use Wells located in an area that could flood due to the location inside a berm must meet the flood protection requirements of Minnesota Rules 4725.6755.
- 1203.7 A Registered Use Well must be labeled with the Unique Well Number attached to the Well casing in a visible location using a stainless steel clamp, metal band or strap. If no Unique Well Number exists, the Well Owner must obtain a Unique Well Number from the Department. This label is required for all Registered Use Wells regardless of the age of the Well. The Well Owner shall ensure that the Well identification label is legible.
- 1203.8 A damaged concrete pad of an at-grade Registered Use Well must be replaced with a concrete pad that meets Minnesota rules 4725.6850 subpart 3.d.
- 1203.9 The Department may establish timelines consistent with this Ordinance for Repairs to a Registered Use Well.
- 1203.10 Any Well for which a Permit is issued or renewed pursuant to this Section may be inspected and examined by the Department with reasonable notice given to the property and Well Owner.
- 1203.11 Owners of existing and new Registered Use Wells shall permanently seal Wells pursuant to Section 1100 upon disuse or Permit suspension, revocation, or other termination. A Monitoring Well is "in use" if it is used for water level measurements or sampling at least on an annual basis.

SECTION 1300.

**NONCONFORMING WELLS AND WATER SUPPLIES**

1301. **CORRECTION ORDER.** If any nonconforming Well or Water Supply becomes polluted, serves as a channel for the migration of surface or subsurface Contaminants, or is an existing or potential threat to interconnect a contaminated Aquifer with an uncontaminated Aquifer, the Department shall order its correction upon discovery unless otherwise provided in this Ordinance. Pursuant to Section 1100 and other provisions of this Ordinance, Minnesota Statutes Chapter 103I and any subsequent amendments, the Department shall enforce this provision in a timely manner to protect Groundwater resources and public health and safety.
1302. **CONFORMANCE STANDARDS.** Existing Wells, not defined as unused in Section 1100, shall conform to and comply with the applicable provisions of this Ordinance, including the sanitary protection of Water Supplies at the time of a Property Transaction. After reviewing a Well disclosure the Department may require the Owner to complete appropriate Repairs to the Well and Water Supply appurtenances pursuant to Minnesota Statutes Chapter 103I, Minnesota Rules Chapter 4725 and any subsequent amendments.

## SECTION 1400

### WELL INVENTORY

1401. WELL INVENTORY. The Department shall create an inventory of all Wells in the County. When the Department becomes aware of a previously unknown Well, the Department shall try to obtain information about the Well, including the original Well construction record. If no Well construction record can be found, the Department will assign a unique number. The Department may require the Well Owner to complete a Well Inventory Form.
1402. IRRIGATION WELL INVENTORY. Owners of Irrigation Wells are required to complete an Irrigation Well Inventory Form. Upon discovery of the Well by the Department, a letter will be sent to the Well Owner requesting completion of the Irrigation Well Inventory Form within 30 days from the date of the letter. The Well Owner must provide a site map showing the location of all Wells on the parcel, labeled by Well type (i.e. Irrigation, domestic, unused), and a copy of the Well record for each Well, prepared by the Well driller if available.

**SECTION 1500.**

**SEVERABILITY**

If any provision or application of any provision of this Ordinance is determined by a court to be invalid, the finding shall not invalidate or affect other provisions or applications of this Ordinance.

SECTION 1600.

**EFFECTIVE DATE**

This Ordinance shall be in full force and effect on and after February 1, 1989, upon adoption and publication pursuant to Law. The first amendments to this Ordinance shall be in full force and effect on and after January 7, 1992, upon adoption and publication pursuant to Law. The second amendments to this Ordinance shall be in full force and effect on and after April 4, 1995. The third amendments to this Ordinance shall be in full force and effective on and after November 3, 1998.

Passed by the Board of County Commissioners of Dakota County this 20th day of December 1988.

Amended by the Board of County Commissioners of Dakota County this 7th day of January 1992.

Amended by the Board of County Commissioners of Dakota County this 4th day of April 1995.

ATTEST: COUNTY OF DAKOTA, STATE OF MINNESOTA

*Mary S. Scheide*  
*Clk to the Board*

Thomas V. Novak  
Dakota County Treasurer-Auditor

*Michael E. Turner*

Michael E. Turner, Chairman  
Dakota County Board of Commissioners

DATE: 1-12-99

DATE: 1-12-99

*JR Stassen 1/7/99*

Approved as to Form/Date  
Jay R. Stassen  
Assistant County Attorney

*JR Stassen 1/20/99*

Approved as to Execution/Date  
Jay R. Stassen  
Assistant County Attorney

ORDINANCE HISTORY

Originally adopted: December 20, 1988  
First Amendments: April 4, 1995  
Second Amendment: November 3, 1998

**98-606 Adoption of Amendments to Dakota County Ordinance 114: Well and Water Supply Management**

Motion: Comm. Harris

Second: Comm. Turner

WHEREAS, Dakota County has administered Ordinance No. 114: Well and Water Supply Management, through a delegation agreement with the Minnesota Department of Health to manage and operate a well regulatory program, since its initial adoption (Resolution No. 88-1060) on December 20, 1988; and

WHEREAS, the Dakota County Board of Commissioners, acting as the Dakota County Board of Health, and the State Commissioner of Health amended the delegation agreement for the Construction, Repair, and Sealing of Water Wells, Monitoring Wells, and Dewatering Wells, on January 7, 1992 (Resolution No. 92-056); and

WHEREAS, the Dakota County Board of Commissioners previously adopted amendments to Ordinance No. 114 on April 4, 1995 (Resolution No. 95-201); and

WHEREAS, the Dakota County Board of Commissioners, acting as the Dakota County Board of Health, and the State Commissioner of Health have amended the delegation agreement by adding new terms providing for the collection of "Core Function Fees" by the County, and the payment of the "State Core Function Fees" to the Minnesota Department of Health, as presented to the County Board on June 16, 1998 (Resolution No. 98-359); and

WHEREAS, the Dakota County Board of Commissioners proposes to amend Dakota County Ordinance No. 114 to update and clarify Ordinance language, add definitions, set additional standards, increase well permit expiration time limits, remove irrigation well permitting requirements, and remove redundant language; and

WHEREAS, the Physical Development Division Director was directed to transmit the public hearing notice and proposed amendments to administrators/clerks of cities and townships, real estate professional associations, well drilling contractors, environmental consultants, the Minnesota Pollution Control Agency, and the Minnesota Department of Health; and

WHEREAS, copies of the proposed amendments to Dakota County Ordinance No. 114: Well and Water Supply Management, have been available for review at the offices of the Dakota County Treasurer-Auditor and the Environmental Management Department; and

WHEREAS, the Dakota County Treasurer-Auditor's Office has published in the official County newspaper, notice of the public hearing on the proposed amendments to Dakota County Ordinance No. 114: Well and Water Supply Management; and

WHEREAS, the Dakota County Board of Commissioners desires to make these amendments effective immediately upon adoption; and

WHEREAS, a properly noticed public hearing was held before the Dakota County Board of Commissioners on November 3, 1998.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby adopts the proposed amendments to Dakota County Ordinance No. 114: Well and Water Supply Management, as presented to the County Board on November 3, 1998.