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WELL AND WATER SUPPLY MANAGEMENT

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DAKOTA COUNTY
ORDINANCE NO. 114
WELL AND WATER SUPPLY MANAGEMENT

SECTION 1.00 PURPOSE, INTENT, AND AUTHORITY

1.01 PURPOSE

The purpose of this ordinance is to establish standards for the construction, reconstruction, sealing, maintenance, and regulation of wells, referenced in section 2.00, to protect groundwater and the environment and to promote the health, safety, and welfare of the public.

1.02 INTENT

- A. The protection of water resources and potable supplies of groundwater which are 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.
- B. The regulation of the construction, reconstruction, operation, maintenance, repair, permanent sealing, and annual permitting of all applicable wells and water supplies to ensure the non-degradation of groundwater and the preservation of groundwater resources.
- C. The establishment of minimum standards for the proper location, 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.
- D. The prevention and control of waterborne disease, groundwater-related hazards, and nuisance conditions; the promotion of safe drinking water quality and abundant groundwater resources through education, plan reviews, inspections, sanitary surveys, technical assistance, and complaint investigations of wells and water supplies.
- E. The 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.
- F. The protection of sustainable, high-quality water supplies for priority water usage, as identified in Minnesota Statutes, Chapter 103G.261, in accordance with the 2020-2030 Dakota County Groundwater Plan or a superseding Dakota County Plan. Prevention of high-volume nonessential water use will help limit multi-aquifer mixing of contaminated groundwater, increase the availability of groundwaters that meet water quality standards identified under section 4.04, and reduce the need for water treatment in order to meet public health protection standards.
- GF. The study and interpretation of the county's groundwater resources and unique hydrogeologic attributes by analyzing well and boring records and reports of other geophysical and hydrogeologic testing of wells and borings, which contribute to the advancement of groundwater science and technology and to the development of groundwater protection strategies.

1.03 AUTHORITY

This ordinance is adopted pursuant to Minn. Stat. chs. 103H, 103I, 145A, and 473 (and subsequent amendments) and the Delegation Agreement between the Minnesota Department of Health and the County, as may be amended.

SECTION 2.00 SCOPE

This ordinance regulates the construction, reconstruction, operation, maintenance, repair, permanent sealing, and annual maintenance permitting in the county of:

- Any well used:
 - As a private water-supply well
 - As part of a non-community public water system as defined in 40 Code of Federal Regulations 141.2 (e.g., wells serving schools, parks, motels, restaurants)
 - For irrigation
 - For agricultural, commercial, or industrial water supply
 - For heating or cooling, including groundwater thermal exchange devices but excluding bored geothermal heat exchangers
 - For environmental wells
 - For dewatering wells
- Any other wells listed in the Delegation Agreement between the Minnesota Department of Health and Dakota County

This ordinance does not regulate the construction, repair, and sealing of wells serving a community water system as defined in 40 Code of Federal Regulations 141.2.

SECTION 3.00 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minnesota Statutes, Chapters 103H and 103I, and Minnesota Rules, Chapter 4725, and if not defined there, shall have common usage meaning. For purposes of this ordinance, the words “must” and “shall” are mandatory and not permissive unless a different definition appears in this ordinance.

- 3.01 "APPROVED TESTING METHODS"** means 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).
- 3.02 "COUNTY"** means Dakota County, Minnesota.
- 3.03 "COUNTY BOARD"** means the Dakota County Board of Commissioners, which shall act as the Board of Health pursuant to Minn. Stat. ch. 145A.
- 3.04 "DEPARTMENT"** means the Environmental Resources Department of the Dakota County Physical Development Division (or its successor), its staff, and its designated agents.
- 3.05 "EMBARGO"** means a written order issued by the department prohibiting the movement, removal, transport, use, or sale of materials, equipment, supplies, or products that the department has reason to suspect is being or will be used in violation of this ordinance.
- 3.06 "IRRIGATION WELL"** means a non-potable well used primarily for irrigating.
- 3.07 "MUNICIPALITY"** means any incorporated city or township within the boundaries of Dakota County, Minnesota, or a combination thereof that is included in an agreement to act cooperatively or jointly.
- 3.08 "NOTICE OF VIOLATION"** means an administrative version of a judicial complaint in the form of a written letter that is issued by the department to a person. A notice of violation must contain the following sections:
1. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance section(s), statute(s), and/or rule(s) which are allegedly violated;

2. Orders for corrective action, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made; and
 3. A description, in general terms, of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.
- 3.09 "PERSON"** means 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.
- 3.10 "PUBLIC NUISANCE"** means an act, or failure to perform a legal duty, that creates conditions that unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of any number of members of the public.
- 3.11 "PUMPS AND PUMPING EQUIPMENT"** means 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.
- 3.12 "RECONSTRUCTION"** means any approved work on an existing well, including, but not limited to, grouting, changing total depth, changing casing depth, changing diameter of well casing, and changing well head completion (other than bringing a well completed below grade to above grade).
- 3.13 "REGISTERED WELL"** means an environmental well or dewatering well that is annually permitted.
- 3.14 "REPAIR"** means any work on an existing well that does not constitute reconstruction as defined above or means well sealing.
- 3.15 "STATE"** means the Minnesota Department of Health.
- 3.16 "UNUSED WELL"** means a well which is not in use and has not been permanently sealed by a licensed well contractor or limited well contractor.
- 3.17 "WARNING NOTICE"** means a written document issued by the department to a person that includes the following:
1. A list of violations, including the ordinance section(s), rule(s), or statute(s) violated, the factual basis for the violations, and the date(s) of the violations;
 2. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made; and
 3. A description, in general terms, of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

SECTION 4.00 STANDARDS

4.01 STANDARDS ADOPTED

Minn. Stat. ch. 103I and Minn. R. ch. 4725 and all other referenced laws and rules, as may be amended, are adopted by reference and made a part of this ordinance.

4.02 HIGHER STANDARDS PREVAIL

Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other applicable law, ordinance, rule, and regulation, the provision that establishes the higher standards for the promotion and protection of the public health, safety, and general welfare shall prevail and shall be deemed the minimum standard for purposes of this ordinance.

4.03 CONSTRUCTION STANDARDS

Well construction, reconstruction, repair, permanent sealing, and annual maintenance permitting, including registered use or unused wells, shall meet the standards of this ordinance and Minn. R. ch. 4725.

- A. **POTABLE WATER.** For a potable water supply, the only acceptable type of well construction 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.
- B. **NONPOTABLE WATER.** For a nonpotable water supply, construction standards shall be utilized which afford the greatest protection to groundwater quality and quantity. A well constructed as a nonpotable water supply shall not be converted for use to a potable water supply unless it is reconstructed to conform to the construction standards for a potable water supply and is approved by the department.
- C. **METAL IDENTIFICATION TAG WITH STAMPED UNIQUE WELL NUMBER.** A metal identification tag with stamped unique well number shall be affixed to the well's sanitary well seal, exposed well casing, riser pipe, or other readily visible and permanent location as approved by the Minnesota Department of Health and the department.
- D. **ADDITIONAL REQUIREMENTS.** The department may impose additional construction standards consistent with the intent of this ordinance for the purpose of protecting groundwater and the environment and to promote the public health, safety, and welfare.

4.04 WATER QUALITY STANDARDS

- A. **QUALITY STANDARDS ADOPTED.** The maximum contaminant levels (MCL) established for public community and non-community water supplies, health risk limits (HRL), or other criteria adopted by the Minnesota Department of Health, as may be amended, shall apply to applicable wells and their potable water supplies for the contaminants discussed in sections 4.04(B) and (C) below. These standards shall also apply to non-potable water supply wells when the department deems it necessary to protect the groundwater and the environment and to promote the public health, safety, and welfare.
- B. **TEST METHODS.**
 - 1. 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 required, by the Minnesota Department of Health.

2. 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 must be certified by the Minnesota Department of Health for the parameters analyzed.
 3. Approved field test methods and instruments may be utilized for the purpose of obtaining an onsite evaluation of water quality for well construction, repair and sealing activities, and inspections, surveys, and investigations by the department. When deemed appropriate by the department or as otherwise required by this ordinance, test results so obtained shall be verified by approved laboratory test methods pursuant to sections 4.04(B)(1) and (2) above.
- C. **WATER TESTING REQUIRED.** For a newly constructed or reconstructed potable water supply, the contractor shall follow the water testing requirements in Minn. R. ch. 4725.5650, as may be amended. The water sample must be analyzed for total coliform bacteria, arsenic, nitrate-nitrogen, and manganese. The department may require testing for additional contaminants of concern if determined necessary to ensure public health and safety.
1. The water sample must be free of coliform bacteria in the untreated portion of the water supply.
 2. Prior to completing the construction or reconstruction of a well, the contractor shall arrange for the timely testing of the water for nitrate. The sample must be taken pre-grout when the grout is neat cement. The contractor shall not allow an incompletely constructed or reconstructed well that has no 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. If the nitrate-nitrogen concentration exceeds the adopted standard, the contractor must alter the well construction or take corrective actions to meet the adopted standard, or the property owner must agree to install a water treatment system as described in 4.04(D).
 3. The contractor must communicate to the well owner the water sample results with the department-provided information sheet identifying potential health effects from consumption.
 4. The department may require the collection of a duplicate sample to be submitted to a laboratory of its choice for analysis.
- D. **WATER TREATMENT REQUIRED.** If the nitrate-nitrogen concentration or the arsenic concentration of the completed well water sample exceeds the adopted standard, the property owner must install a water treatment system for the primary drinking and cooking water.
1. Water treatment systems must be certified by the National Science Foundation International, Water Quality Association, or Underwriters Laboratory for nitrate-nitrogen or arsenic removal, as applicable, to levels below the adopted standard. The water treatment system must be designed for its intended use and must be installed in accordance with manufacturer instructions and intentions for treatment methods and devices. Acceptable systems may include:
 - a) A point-of-entry treatment system that provides treatment for all water that travels to faucets and fixtures inside the building; or
 - b) A point-of-use treatment system installed at primary drinking water and cooking water locations, such as the kitchen sink, bar sink, and refrigerator water/ice dispenser(s).
 2. The water treatment system must be installed and functional prior to consumption of the water.
 3. The well owner is responsible for maintaining all water treatment equipment and filters in accordance with manufacturer guidance.

4. Within 30 days of installation of the water treatment system, the well owner must contact the department to arrange a final inspection and treated water test. The well owner is responsible for all expenses associated with water sample collection and testing. If the installed water treatment system fails to reduce nitrate-nitrogen concentrations or arsenic concentrations below the adopted standard, the department may require a new treatment system or that the well be sealed or labeled non-potable and disconnected from potable connections.

4.05 ENVIRONMENTAL PROTECTION STANDARDS

The construction, installation, or permitting of new wells estimated to use a water volume greater than 50 million gallons per year, either for one well or multiple wells servicing the same use, for the water use type defined by the Minnesota Department of Natural Resources (DNR) as commercial/institutional water supply, is prohibited to ensure availability of high-quality groundwaters in accordance with section 1.02(F). This section does not apply to wells in existence or replacement of wells in existence prior to January 1, 2021.

SECTION 5.00 ADMINISTRATION

5.01 DUTIES OF THE DEPARTMENT

The department shall be responsible for the administration and enforcement of this ordinance. The department's duties shall include, but shall not be limited to, the following:

- A. To review and consider all well permit applications, including design plans and specifications.
- B. To issue permits required by this ordinance.
- C. To inspect the construction, reconstruction, annual maintenance, and sealing of wells to determine compliance with Minn. Stat. ch 103I, Minn. R. ch. 4725, and this ordinance and to determine if the well contractor or limited well contractor performing the work is licensed in accordance with Minn. Stat. ch. 103I and Minn. R. ch. 4725.
- D. To investigate the status of wells when wells are disclosed on a well disclosure certificate as "not in use," "sealed," and no sealing record is on file or when the status of wells is not reported or not clear.
- E. To test, measure, and evaluate water quality and quantity.
- F. To investigate complaints, identify violations of this ordinance, and undertake any enforcement actions as deemed necessary.
- G. To recommend, when necessary, to the Dakota County Attorney's Office, that legal proceedings be initiated to compel compliance with the provisions of this ordinance or to terminate the operation of the same.
- H. To determine compliance with this ordinance, sanitary codes and practices, safe drinking water maximum contaminant levels, and health risk limits.
- I. To provide guidance to property owners and well contractors, when appropriate, for a State variance from Minn. R. ch. 4725.
- J. To provide comments to the State on any variance request from Minn. R. ch. 4725.
- K. To maintain all necessary records and complete all required reports.
- L. To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this ordinance.

- M. To establish policies, procedures, criteria and standards, and technical guidance for the regulation of well construction, repair, and sealing.
- N. To provide technical assistance and education to the public related to this ordinance.
- O. To study and interpret information and data to improve knowledge and protection of groundwater resources and supplies.
- P. To perform all other duties however expressed or implied by this ordinance.

5.02 INSPECTIONS

The department shall inspect the construction of new wells and the reconstruction or sealing of existing wells in accordance with the Delegation Agreement to determine compliance with the requirements of this ordinance, Minn. Stat. ch. 103I, and Minn. R. ch. 4725 and to determine if the well contractor or limited well contractor performing the work is licensed in accordance with Minn. Stat. ch. 103I and Minn. R. ch. 4725. The property owner and/or well owner shall allow the department access to the well site and well for the purpose of making such inspections, including re-inspections as needed to verify the correction or removal of any violations. The well owner shall allow the department to take samples and conduct tests, as appropriate, to determine compliance with this ordinance, Minn. Stat. ch. 103I, and Minn. R. ch. 4725.

5.03 RIGHT OF ENTRY

Whenever necessary to perform an inspection to enforce any provision of this ordinance, the department may enter a well site at all reasonable times to inspect the same or to perform any duty imposed upon the department by this ordinance. If such entry is refused, the department shall have recourse to every remedy provided by law to secure entry, including, but not limited to, administrative and criminal search warrants.

5.04 RECORDS

- A. Any person who performs work under this ordinance shall allow the department free access at reasonable times to inspect, and copy at a reasonable cost, all business records related to the work performed and shall maintain said business records for a minimum period of three years.
- B. 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 and all water test reports shall be submitted by the contractor or other permittee to the department as required by Minn R. ch. 4725.

5.05 WELL INVENTORY

The department shall create and maintain an inventory of all wells in the county. When the department becomes aware of a previously unknown well, the well owner shall provide known well information to the department.

5.06 INDEMNIFICATION OF COUNTY

To the fullest extent allowed by law, a permittee shall indemnify Dakota County, its officers, employees, agents, and others acting on its behalf, to hold it harmless and to defend and protect it 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.

5.07 ORDINANCE VIOLATIONS

For violations of this ordinance, the County may take the following actions: issuance of a warning notice; issuance of a notice of violation; issuance of a citation or complaint; abatement of an unsealed well; issuance of an embargo order; suspension, summary suspension, or revocation of a permit issued under this ordinance; execution of a stipulation agreement; and/or commencement of other civil proceedings.

- A. NOTICE OF VIOLATION (NOV) OR WARNING NOTICE. The department may issue a NOV or warning notice, as defined in 3.08 and 3.17, to any person alleged to have committed a violation of this ordinance. A NOV or warning notice shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the NOV or warning notice may be made by certified mail, by personal service, or by U.S. Postal Service.
- B. CITATIONS. 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. An authorized representative of the department shall have the power to issue citations for violations of this ordinance but shall not be permitted to physically arrest or take into custody any violator.
 - 1. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation (alleged violator) either by personal service or by certified mail. In the case of a public, private, or municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.
 - 2. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the alleged violator; one copy shall be filed with the department; one copy shall be filed with the Dakota County Attorney's Office; and one copy shall be filed with the Dakota County District Court, First Judicial District.
 - 3. Form of Citation. Citations shall be on such form(s) as approved by the department and shall contain at least the following:
 - a. The name and address of the alleged violator and, when known, the owner or person in charge of the premises at which the violation occurred.
 - b. The date, time (if known), and place of violation.
 - c. A short description of the violation followed by reference to the section of this ordinance violated.
 - d. The name of the person issuing the citation.
 - e. The date, time, and place at which the alleged violator shall appear in court and notice that, if such person does not appear, a warrant may be issued for such person's arrest.
 - f. Such other information as the court may specify.
 - 4. Court Appearance. The alleged violator shall appear at the place and on the date and time specified in the citation and either:
 - a. Plead guilty to the citation and meet the requirements of the sentence imposed by the court; or
 - b. Plead not guilty to the citation and schedule a court date for further hearing or trial.

5. Failure to Appear on the Citation. If the alleged violator does not appear at the place and on the date and time specified on the citation, the court may issue a warrant for the person's arrest.
6. Complaint. A complaint may be issued in lieu of a citation as determined by the Dakota County Attorney's Office.
7. Aiding and Abetting. As set forth in Minn. Stat. ch. 609.05, a person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, conspires with, or otherwise procures the other to commit the crime. A person liable for such crime is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. A person who intentionally aids, advises, hires, counsels, conspires with, or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

A person liable under this section may be charged with and convicted of the crime even though the person who directly committed the crime has not been convicted, has been convicted of some other degree of the crime or of some other crime based on the same act, or is a juvenile who has not been found delinquent for the act. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

- C. ABATEMENT OF UNSEALED WELLS. A well that is required to be sealed under Minn. Stat. ch. 103I, but is not sealed, is deemed a public health nuisance. In the event the department determines such a public health nuisance exists, it may enter the property and abate the nuisance and recover the costs of the same from the property owner through the following procedures:

1. Abatement Notice. The department shall serve an abatement notice on the property owner.
 - a. Contents of Abatement Notice. An abatement notice shall include the following:
 - (1) Notice that there is an unsealed well located on the property and that it constitutes a public health nuisance.
 - (2) Notice that the property owner must abate the public health nuisance within a time period specified by the department in order to avoid any liability for the costs of inspection and abatement that the County may incur.
 - (3) Notice that, if the property owner fails to abate the public health nuisance within the specified timeframe, the department or its agent intends to enter the property and commence abatement of the public health nuisance and to assess the costs of inspection and abatement against the real property on which the nuisance is located.
 - b. Service. The abatement notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the department shall post a written or printed notice on the property stating that, unless the public health nuisance is abated within a specified time period, the department will have the nuisance abated at the expense of the owner.
2. Abatement by the County. In the event a property owner does not abate the public health nuisance, the department may expend funds necessary to abate the nuisance in accordance with the Dakota County Bid Grant and Contracting Policy. The property owner, well owner, or both shall be liable, jointly and severally, for all costs incurred by the County to abate the public health nuisance.

3. Assessment of Abatement Costs.

- a. The costs of an enforcement action under section 5.07(C) of this ordinance may be assessed and charged against the real property on which the public health nuisance was located.
- b. The department shall keep a record of the enforcement and abatement costs and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots, or parcels involved and the amount assessable to each to the County auditor.
- c. The County auditor shall extend the cost so assessed and charged on the tax roll of the County against the real property on which the enforcement action was taken.

- D. **EMBARGO.** The department may embargo any well or its appurtenances; well construction, repair or sealing equipment, supplies, and machinery; or other materials, devices, products, or services that 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. Embargoed items may be examined or otherwise evaluated by the department to determine conformance to or compliance with this ordinance. Upon evaluation, the department shall determine if the items may be released from embargo. The department shall place a tag or cordon to indicate the embargo of any item. No person shall remove the tag, cordon, or other identification under penalty of this ordinance except as authorized by the department. Such action by the department shall not be considered to impute ownership or management responsibility upon the County.
- E. **STIPULATION AGREEMENT.** The department and a person alleged to have violated provisions of this ordinance may voluntarily enter into a stipulation agreement whereby the parties to the agreement identify conditions on the property that require corrective action, agree on the corrective actions that must be performed by the person, and agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the County may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this ordinance.
- F. **SUSPENSION AND REVOCATION OF PERMIT.** The department may suspend or revoke a permit for violations of this ordinance in accordance with section 5.08 below. The department may issue a summary suspension of a permit for violations of this ordinance in accordance with section 5.08(B) below.
- G. **COMMENCEMENT OF A CIVIL COURT ACTION.** In the event of a violation or threat of violation of this ordinance, the County board may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney's fees, incurred for enforcement of this ordinance.

5.08 PERMIT SUSPENSION AND REVOCATION

A. **SUSPENSION.**

1. Any permit required under this ordinance may be suspended by the department for violation of any provision of this ordinance. Upon written notice to the permittee, said permit may be suspended by the department for a period not longer than 60 days or until the violation is corrected, whichever is shorter.
2. Such suspension shall not occur earlier than 10 County working days after written notice of suspension has been served on the permittee or, if a hearing is requested, until written notice

of the County board action has been served on the permittee. Notice to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation(s) constituting the basis for the suspension, the facts which support the conclusion that the violation(s) occurred, and a statement that, if the permittee desires to appeal, the permittee must file a written request for an appeal hearing with the County board within 10 County working days of the service of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and shall be served to the County board by personal service or certified mail with a copy to the department within 10 County working days of service of the suspension notice, exclusive of the day of service. Following timely service of a request for hearing, the County board shall set a time and place for the hearing pursuant to section 5.09.

3. If said suspension is upheld and the permittee has not demonstrated within the 60-day time period that the provisions of the ordinance have been complied with, the department may serve notice of continued suspension for up to an additional 60 days or initiate revocation procedures.

B. SUMMARY SUSPENSION.

1. If the department finds that an imminent threat to the environment or to public health, safety, or welfare requires emergency action and incorporates such a finding in its order, summary suspension of a permit may be ordered by the department upon notification to the Dakota County Attorney's Office. Written notice of such summary suspension shall be made by personal service or by certified mail on the permittee at the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Alternatively, the department may post copies of the notice of summary suspension of the permit on the property for which the permit was issued. Said posting shall constitute the notice required under this section.
2. The written notice shall state the effective date of the summary suspension, the nature of the violation(s) requiring emergency action, the facts which support the conclusion that the violation(s) occurred, and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the County board within 10 County working days of service or posting of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served to the County board by personal service or by certified mail with a copy to the department within 10 County working days of service or posting of the suspension notice, exclusive of the day of service. Following timely service of a request for a hearing, the County board shall set a time and place for the hearing pursuant to section 5.09.
3. The summary suspension shall not be stayed pending an appeal to the County board or an informal review by the department head but shall be subject to dismissal upon a favorable re-inspection by the department or favorable appeal to the County board.

C. SUSPENSION RE-INSPECTIONS.

Upon written notification from the permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the department shall re-inspect the well or activity within a reasonable length of time but in no case more than five County working days after receipt of the notice from the permittee. If the department finds upon re-inspection 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, served personally or by certified mail on the permittee at the address designated in the permit application, with a copy to the Dakota County Attorney's Office.

D. REVOCATION.

1. Any permit granted pursuant to this ordinance may be revoked by the department for violation of any provision of this ordinance.
2. Revocation shall not occur earlier than 10 County working days from the time that written notice of revocation from the department is served on the permittee or, if a hearing is requested, until written notice of the County board's action has been served on the permittee. The notice of revocation to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation(s) constituting the basis for the revocation, the facts which support the conclusion that the violation(s) occurred, and a statement that, if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the County board within 10 County working days of service of the revocation notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served to the County board by personal service or by certified mail with a copy to the department within 10 County working days of service of the revocation notice, exclusive of the day of service. Following timely service of a request for a hearing, the County board shall set a time and a place for the hearing to be held pursuant to section 5.09.

5.09 HEARINGS

Hearings requested under this ordinance shall be held before the County board or a hearing examiner as provided below and shall be open to the public.

- A. **TIMEFRAME FOR HEARING.** Unless an extension of time is requested by the appellant in writing directed to the chair of the County board and is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.
- B. **NOTICE OF HEARING.** The County board shall mail notice of the hearing to the appellant with a copy to the department and the Dakota County Attorney's Office at least 15 County working days prior to the hearing. Such notice shall include:
 1. A statement of date, time, place, and nature of the hearing.
 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 3. A reference to the particular section of the ordinance and rules involved.
- C. **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 the report.
- D. **CONDUCT OF THE HEARING.** The appellant and the department may be represented by counsel. The department, the appellant, 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.
- E. **BURDEN OF PROOF.** 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 or hearing examiner shall be based on evidence presented and matters officially noticed.

- F. **ADMISSION OF EVIDENCE.** 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 that 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 denial, suspension, summary suspension, non-renewal or revocation of a license, or the contents of an abatement notice or in the appellant's written request for a hearing.
- G. **PRE-HEARING CONFERENCE.** At the written request of any party or upon motion of the County board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County board has chosen to use one, or by a designated representative of the County board. The pre-hearing conference shall be held no later than five County working days before the hearing. The purpose of the pre-hearing conference is to:
1. Clarify the issues to be determined at the hearing.
 2. Provide an opportunity for discovery of all relevant documentary, photographic, or other demonstrative evidence in the possession of each party. The hearing examiner or County board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.
 3. 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.
- If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
1. The evidence was not known to the party at the time of the pre-hearing conference; or
 2. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. **FAILURE TO APPEAR.** If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the County board or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the department's decision, and the department's decision shall stand.
- I. **APPEAL OF COUNTY BOARD DECISION.** Any appellant aggrieved by the decision of the County board may appeal that decision to any court with competent jurisdiction.

5.10 FALSE INFORMATION

Intentional submission of false information shall be deemed a violation of this ordinance.

SECTION 6.00 PERMITTING

6.01 PERMIT AND NOTIFICATION REQUIREMENTS

- A. **REQUIREMENT OF WELL CONSTRUCTION/RECONSTRUCTION PERMIT.** A property owner, the property owner's agent, or the designated well contractor must submit a complete permit application and obtain a permit from the department for the construction or reconstruction of a well. The permit

must be obtained prior to the commencement of any work. The failure to obtain the permit required by this section is a violation of this ordinance.

- B. REQUIREMENT OF SEALING PERMIT. A property owner, the property owner's agent, or the designated well contractor must submit a complete permit application and obtain a permit from the department for the permanent sealing of a well. The permit must be obtained prior to the commencement of any work, including pump removal. The failure to obtain the permit required by this section is a violation of this ordinance.
- C. REQUIREMENT OF ANNUAL MAINTENANCE PERMIT. The well owner, well owner's agent, property owner, or property owner's agent must submit a complete permit application and obtain an annual maintenance permit from the department for a registered well or an unused well. The failure to obtain the permit required by this section is a violation of this ordinance. The following restrictions apply to the issuance or renewal of an annual maintenance permit:
1. An annual maintenance permit shall not be issued for a well that is required to be sealed by Minn. Stat. ch. 103I, Minn. R. ch. 4725, or this ordinance.
 2. An annual maintenance permit may not be issued or renewed for an unused well if the unused well:
 - a. Is improperly capped or sealed or is plugged or filled with unapproved materials;
 - b. 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 is or may become a distinct health or safety hazard to persons consuming or otherwise using water from the well, in which its physical existence constitutes a safety hazard (e.g., someone could fall into it), or that is in nonconformance or noncompliance with any provision of this ordinance; or
 - c. Is an open well or an injection well.
 3. An annual maintenance permit for a registered well cannot be issued or renewed unless:
 - a. The well is labeled in accordance with section 4.03(C) above. A registered well must have a unique well number assigned to it, regardless of the age of the well. If a registered well does not have a unique well number assigned to it, the well owner must obtain a unique well number and label. The well owner shall ensure that a well identification label is attached to the well in accordance with section 4.03(C) above.
 - b. The well has physical protection as required by Minn. R. ch. 4725.6755, regardless of the age of the well. Missing, damaged, or substandard components must be repaired or replaced.
 - c. The well, if an at-grade well, complies with the requirements of Minn. R. ch. 4725.6850, regardless of the age of the well. Missing, damaged, or substandard components must be repaired or replaced.
 - d. The well, if located inside of a berm area and subject to inundation, has flood protection consistent with flood protection requirements in Minn. R. ch. 4725.4350, subp. 2.
 - e. The well, if not in use, meets all of the requirements for issuing an unused well permit under section 6.01(C)(2) above, except when unused registered well permits are only required to obtain a permit under this section.

f. A completed permit application is received.

D. **NONREQUIREMENT OF PERMIT.** A permit is not required for the repair of a well as that term is defined in section 3.14 above. All non-permitted work under this section must conform to and comply with the requirements of this ordinance and all other applicable local, state, and federal laws and regulations and, if applicable, must be performed by a person licensed in accordance with Minn. Stat. ch. 103I.205.

E. **EMERGENCY NOTIFICATIONS AND PERMITS.** Notifications and applications for permits may be verbally reported under emergency conditions for construction and sealing of wells. Emergency conditions are exceptional circumstances where a delay in starting construction poses an immediate and significant danger to health or safety and there is insufficient time for prior notification or obtaining the required permit. Exceptional circumstances include, but are not limited to, cases where well failure will leave livestock or persons without drinking water, where inaction presents an imminent threat to contamination of the well, boring, or groundwater, where delay will result in collapse or damage to the well, where delay will result in the endangerment of health or safety such as in an unstable excavation, or where such construction is court ordered.

If emergency conditions occur during normal business hours, the property owner, the property owner's agent, or a licensed contractor shall provide verbal notification to the department. If emergency conditions occur after business hours or on a County non-business day, the property owner, the property owner's agent, or a licensed contractor shall telephone the department on the next County workday and report the information required for notification. Information required for notification includes:

1. The name and license number of the licensed well contractor;
2. The name, address, and telephone number of the well owner or the property owner, if different;
3. The township number, range number, section and one quartile, and the property street address if assigned; and
4. The unique well number or sealing number.

The property owner, the property owner's agent, or a licensed contractor must submit a written permit application and the applicable fees to the department within five County working days after emergency notification of the start of construction of a well. The emergency notification or permit shall be void if construction is not started within 72 hours of verbal notification.

All construction and location standards of Minn. R. ch. 4725 and this ordinance shall apply to wells constructed under emergency conditions.

F. **REQUIREMENTS OF NOTIFICATION FOR SEALING OF TEMPORARY BORING.** A permit is not required for construction of a Temporary Boring if the boring will be sealed within the timeframe specified in Minn. Stat. chs. 103I. A sealing notification and fee are required to be submitted to the Department prior to sealing the boring. Well sealing records must be submitted to the Department as required in section 5.04.

G. **NOTIFICATIONS FOR NONCONFORMING OR NONCOMPLIANT WELLS.** A well contractor performing any permitted or non-permitted work under this ordinance must provide notification to the owner and the department if a well is in nonconformance or noncompliance with this ordinance or applicable state laws and rules.

H. **NONEXCLUSIVITY OF PERMITTING.** Obtaining a permit shall not be deemed to exclude the necessity of obtaining other appropriate licenses or permits except as expressly provided herein. Compliance with the provisions of this ordinance shall not relieve any person of the need to comply with all other applicable rules, regulations, and laws.

6.02 PERMIT APPLICATION PROCEDURES

- A. APPLICATION FOR PERMIT. Permit applications shall be submitted to the department on current forms provided by the department. Applicants shall provide all information as required for the administration of this ordinance. The permit application must contain all required signatures.
- B. CONTENTS OF PERMIT APPLICATION. A permit application shall contain the following information.
 - 1. A description of the well location to include the township number, range number, section and one quartile, the property street address if assigned, and parcel identification number if available.
 - 2. The name, address, and telephone number of the property owner and well owner, if different.
 - 3. If applicable, one set of complete plans, specifications, design data, and such other information as may be required by this ordinance or the department.
 - 4. A scaled site map showing the location of the well and all data collected for the well, as requested on the permit application, except for data that has previously been submitted and accepted by the department. If the well is not in use, the applicant shall provide a statement of whether the well is properly maintained and of why the well is not in use and not sealed.
 - 5. Any other information deemed necessary by the department to evaluate the permit application.
- C. INCOMPLETE OR NON-CONFORMING APPLICATION. If an application for a permit is not complete or otherwise does not conform with the requirements set forth in this ordinance, the department shall advise the applicant in writing of the reasons for non-acceptance within 60 days of the application receipt. The department may request that the applicant resubmit, modify, or otherwise alter the application. The applicant shall comply with such requests within the time specified by the department.
- D. ISSUANCE OF PERMIT. If the department determines that the application meets the requirements of this ordinance and is satisfied that the work contemplated conforms to and complies with the provisions of this ordinance, the department shall issue the permit.
- E. WELL CONSTRUCTION/RECONSTRUCTION PERMIT. A permit for well construction or reconstruction shall not be issued by the department until all existing wells on the property have been brought back into service, a permanent sealing permit is applied for, or annual maintenance permit has been issued by the department pursuant to this ordinance.
- F. PERMIT AMENDMENT. A permit issued pursuant to this ordinance may be amended by the department upon application by the permittee. Any and all changes to the approved permit application must be submitted to the department for its review, approval, and appropriate permit amendment. No work contemplated by the permit amendment shall be commenced until approved by the department.
- G. PERMIT EXPIRATION. An annual maintenance permit shall be valid for one year from the date it is issued. All other permits issued under this ordinance shall expire 18 months from the date of issuance unless an earlier expiration date is provided in the permit. If the work authorized by the permit is in progress at the time of expiration, the department may renew the permit.
- H. FAILURE TO ACT ON PERMIT APPLICATION. If the department fails to act within 60 days of receipt of a properly completed initial permit application, the applicant may request a hearing on the application. The hearing request shall be in writing stating the grounds for the appeal and served to

the County board by personal service or certified mail with a copy to the department. The request for hearing shall be governed by section 5.09.

- I. NOTICE OF DENIAL AND RIGHT TO APPEAL. If the department determines that the work contemplated in the permit application does not conform or comply with the provisions of this ordinance or applicable state laws or rules, the department shall deny the permit. If the department denies a permit, the applicant shall be notified of such denial in writing. The denial shall be served by the department by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the permit denial by filing a request for an appeal hearing. The appeal hearing request shall be in writing stating the grounds for the appeal and served to the County board by personal service or certified mail with a copy to the department within 10 County working days of the service of the permit denial, exclusive of the day of service. Following timely service of a request for a hearing, the County board shall set a time and place for the hearing pursuant to section 5.09.
- J. NONTRANSFERENCE OF PERMITS. Permits issued under this ordinance are not transferable.

6.03 NOTIFICATION TO DEPARTMENT FOR INSPECTION

- A. Except as provided in section 6.01(E) above, a well contractor, licensee, or other permittee shall give prior notice to the department in person, by telephone, or in writing and shall retain a record of said notification for the following:
 - 1. Date and estimated time that construction, reconstruction, or sealing activities will begin or resume after interruption of such activities; and/or
 - 2. Whenever significant problems develop during the construction, reconstruction, or sealing of a well.
- B. The notice required by this section shall be provided during normal County work hours at least one County workday preceding the day that the construction, reconstruction, sealing, or other specified activities are scheduled to occur. If adjustments of the specific inspection time are necessary, the notice shall be given in person, by telephone, or in writing not less than one hour before a well was originally scheduled for inspection unless otherwise approved by the department. Notification 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.

6.04 DUTY TO COMPLY WITH PERMIT CONDITIONS

PERMIT CONDITIONS. The permittee shall comply with the conditions stated in the permit as approved by the department. Any modifications to the permit must be approved by the department as provided in section 6.02(F). Failure of the permittee to comply with the permit requirements is a violation of this ordinance, and the permittee is subject to the penalties provided herein.

6.05 FEES

- A. APPLICATION FEES. The County board shall establish, by resolution, application fees to process permit applications required by this ordinance.
- B. PERMIT FEES. The County board shall establish, by resolution, fees for permits required by this ordinance.
- C. PENALTY FEES. The County board shall establish, by resolution, penalty fees for the (1) failure to obtain a permit prior to the construction, reconstruction, or sealing of a well; (2) non-payment of permit fees by a registered well owner; and (3) failure of a registered well owner to provide well information as requested by the department.

- D. FEE FOR SERVICE. The County board shall establish, by resolution, a fee for service and such other fees as determined by the department to be appropriate and exclusive of the aforementioned fees.
- E. PAYMENT OF FEES. Fees required by this ordinance are due and payable as prescribed at the time of permit application or, if agreed to by the department, within 30 days of billing by the department. Fees for annual maintenance permits are due and payable on the date specified by the department. Unless otherwise authorized by the department, fees may not be prorated and fees are not refundable, in whole or in part.

SECTION 7.00 VARIANCES

7.01 APPLICATION

Upon written application by the applicant (i.e., property owner, the property owner's agent, well owner, the well owner's agent, or the designated well contractor), the County board may grant variances from the requirements of the regulations and standards prescribed by this ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance. The variance shall be in writing and granted only for good cause. A request for such variance shall be accompanied with a plan and time schedule for compliance with the provisions of this ordinance.

7.02 CONTINUING VARIANCE

The County board may approve a variance that will carry over to each successive permit renewal granted unless specifically rescinded by the County board.

7.03 DENIAL OF VARIANCE AND RIGHT TO APPEAL

If a variance request is denied, the applicant may appeal the denial by filing a request for an appeal hearing. The appeal hearing request shall be in writing stating the grounds for the appeal and served on the County board by personal service or certified mail with a copy to the department within 10 County working days from the date of the denial of the variance. Following timely service of a request for hearing, the County board shall set a time and place for the hearing pursuant to section 5.09.

7.04 REQUIREMENT OF STATE APPROVAL

When applicable, a variance from the requirements of Minn. R. ch. 4725 must be obtained from the Minnesota Department of Health prior to any work being conducted under this ordinance. Conditions may be imposed in the granting of a variance to ensure compliance and to protect the groundwater and the health, safety, and welfare of adjacent properties and the public. A variance cannot be issued after non-complying work has occurred.

7.05 VIOLATIONS

- A. REQUIRED VARIANCE. Any person who conducts prohibited work under this ordinance without obtaining a required variance is in violation of this ordinance and subject to the penalties herein.
- B. VIOLATION OF CONDITIONS. Any person who violates any condition set forth in a variance is in violation of this ordinance and subject to the penalties herein.

SECTION 8.00 PROPERTY SALE AND WELL DISCLOSURE

8.01 PROPERTY TRANSFER/SALE REQUIREMENTS

Prior to the sale or transfer of real property, the owner or other person acting with legal authority on behalf of the owner of real property must meet the following requirements:

- A. The seller/transferor must test any existing potable well water supply and disclose to the buyer/transferee the results of said testing and any corrective measures necessary to bring the water supply into conformance with this ordinance. The department may waive this testing requirement if the water supply well was tested in accordance with this ordinance within 12 months prior to the date of the sale/transfer of real property. The department may waive the requirement for arsenic testing if the well has been tested for arsenic at least one time, more than six months after the well was brought into use, and the testing was done in accordance with the requirements of this Ordinance. The department may waive the requirement for manganese testing if the well has been tested for manganese at least one time in accordance with the requirements of this Ordinance.
- B. The testing must be conducted by a State certified laboratory. Samples must be collected by an independent third party using appropriate sample collection procedures.
- C. The seller/transferor must disclose to the buyer/transferee the use of a treatment device or method. In the case of water treatment required by section 4.04, samples for testing must be collected from the treated and untreated portions of the water supply.
- D. Potable water supply wells must meet applicable drinking water standards as defined in the Ordinance (Section 4.04) or have water treatment as required in Section 4.04.
- E. The seller/transferor must complete and provide the disclosure when required by Minn. Stat. ch. 103I.235.

8.02 UNUSED WELLS

If an unused well is disclosed during the sale or transfer of real property, the unused well must be permanently sealed in accordance with section 11.00, permitted in accordance with section 6.00, or brought back into working condition and used in accordance with this ordinance. Unused wells must be brought into compliance with this Ordinance within one year of the disclosure.

SECTION 9.00 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 10.00 USE OF EXISTING WELLS FOR NEW CONSTRUCTION

10.01 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 and the water quality meets the standards in Section 4.04 of this ordinance.

10.02 EXISTING WELL STANDARDS

An existing well that 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 property owner 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 standards of section 4.04 above; and

- B. The use of the well does not present a threat to the quality or quantity of the groundwater resource or present a threat to public health as determined by the department.

SECTION 11.00 WELL SEALING

11.01 WELL SEALING REQUIRED

When required by Minn. Stat. ch. 103I, a property owner, or well owner if different than the property owner, must seal a well in accordance with Minn. Stat. ch. 103I, Minn. R. ch. 4725, and this ordinance.

11.02 ADDITIONAL REQUIREMENTS

Prior to the permanent sealing of a well, the department may require the property owner, or well owner, to (a) conduct testing to determine if groundwater contamination exists and/or (b) have the well evaluated with a well inspection video camera, mechanical or geophysical logging techniques, or some other method to determine proper sealing procedures.

11.03 PUBLIC NUISANCE

A well that is required to be sealed under Minn. Stat. ch. 103I, but is not sealed, is deemed a public health nuisance. If the well is determined to be a public health nuisance, the department shall require the property owner, or well owner, to take all necessary steps to have the well properly sealed by a licensed well contractor. If the property owner, or well owner, fails to do so, the department may abate the unsealed well in accordance with section 5.07(C) of this ordinance.

SECTION 12.00 SEVERABILITY

It is hereby declared to be the intention of the County board that the several provisions of this ordinance be separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment; and/or
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of this ordinance to a particular well, such judgment shall not affect the application of said provisions to any other wells not specifically included in said judgment.

SECTION 13.00 REMEDIES CUMULATIVE

No remedy set forth in this ordinance is intended to be exclusive, but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay in the exercise of any remedy for violation of this ordinance shall later impair or waive any such right or power of the County.

SECTION 14.00 ORDINANCE REPEALED

Dakota County Ordinance No. 114, Well and Water Supply Management, originally adopted December 20, 1988, and amended on January 7, 1992, April 4, 1995, and November 3, 1998, is hereby repealed.

SECTION 15.00 EFFECTIVE DATE

This ordinance and any amendments thereto shall be in full force and effect from and after its passage and publication according to law.

ATTEST:
COUNTY OF DAKOTA, STATE OF MINNESOTA

Jennifer Reynolds
Senior Admin. Coordinator to the Board
Date: _____

Chairperson
Dakota County Board of Commissioners
Date: _____

Approved as to Form/Date
Helen R. Brosnahan
Assistant County Attorney

Approved as to Execution/Date
Helen R. Brosnahan
Assistant County Attorney