

THE COUNTY BOARD OF LE SUEUR COUNTY ORDAINS:

THE WATER SUPPLY WELL ORDINANCE

FOR THE COUNTY OF LE SUEUR

ORDINANCE NO.

SECTION 1 PURPOSE

The purpose of the Water Supply Well Ordinance shall be to provide minimum standards for the regulation of wells through a local permit and inspection program.

SECTION 2 OBJECTIVES

The principal objectives of this Ordinance shall include the following:

1. **Ground water protection.** The protection of ground water is essential for the promotion of public health, safety, and general welfare. It is critical for socioeconomic growth and development. A comprehensive permit and inspection program has been established to enforce minimum standards for the placement, construction, and sealing of wells to prevent contamination of ground water.
2. **Well Sealing.** To continue efforts to identify, locate and seal existing, unused wells.
3. **Comprehensive County Program.** To provide a comprehensive public health program through the regulation of wells which complement other existing county programs including individual sewage treatment systems, feedlot permitting and planning and zoning.

SECTION 3 SCOPE

This Ordinance shall regulate the design, construction, reconstruction and sealing of any water supply well used:

- 1) as a private well;
- 2) as part of a non-community water system as defined in 40 Code of Federal Regulations 141.2 (eg. wells serving schools, parks, motels, restaurants);
- 3) for irrigation;
- 4) for agricultural, commercial, or industrial water supply;

- 5) for heating or cooling, including ground water thermal exchange devices as defined in Minnesota Statutes, Section 103I.005.

This Ordinance shall not regulate:

- 1) vertical heat exchangers as defined in Minnesota Statutes, Section 103I.005, which are not wells;
- 2) community public water supply wells which are regulated by the Minnesota Department of Health;
- 3) remedial wells as defined in Minnesota Rules, part 4725.0100 subpart 41b, nor other types of wells and borings not specifically delineated in the delegation agreement.

SECTION 4 ADMINISTRATION BY LE SUEUR COUNTY

1. **Authority.** Under the authority of the Le Sueur-Waseca Board of Health, the Well Inspector(s), as designated by the Le Sueur County Board of Commissioners, are responsible for the administration of this Ordinance. The staff is hereby given the authority to make inspections and perform tasks necessary for the performance of this duty; to order the suspension of any work being done in violation of the provisions of this Ordinance; and to prohibit the use of any material or operation of any machinery in violation of the provisions of this Ordinance.
2. **Standards Adopted by Reference.** This Ordinance hereby adopts by reference Minnesota Rules, Chapter 4725, "Wells and Borings" and all subsequent amendments including official Minnesota Department of Health Policies relating to the administration and interpretation of the rule provisions. This chapter is adopted according to and in conjunction with Minnesota Statutes, Chapter 103I, relating to Wells, Borings and Underground Uses.
3. **Jurisdiction.** The jurisdiction of this Ordinance shall apply to all the area of Le Sueur County irrespective of municipal or township boundaries. A copy of permits issued within a municipality shall be forwarded by the Well Inspector to the clerk of the municipality.
4. **Interpretation.** When interpreting and applying the provisions of this Ordinance, the provision which is most restrictive and which requires the higher standard for the promotion of public health, safety and general welfare shall prevail.
5. **Severability.** If any provision or application of any portion of this regulation is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance.

SECTION 5 PERMIT REQUIREMENTS

1. **Permit.** A permit shall be obtained from Le Sueur County before a well is constructed, reconstructed (casing added or removed below the frost line) or sealed. Work shall not begin without first making application for and obtaining said permit from the County for each well constructed, reconstructed or sealed. No permit shall be required for repairs or for pump installation under the terms of this Ordinance. No well construction permit that will allow replacement of an existing well shall be issued until provisions have been made for the proper sealing of such well in accordance with applicable regulations and standards.
2. **Application.** An application for a permit shall be made in writing and signed by the well contractor, except the property owner shall obtain and sign required Maintenance permits for approved unsealed wells. Application shall be made on forms provided by Le Sueur County. Required applications shall be submitted, fees paid and the permit issued prior to any construction, reconstruction or sealing work commencing.
3. **Application Rejection.** Upon application review, Le Sueur County may deny any permit application or renewal for violation of this Ordinance by the applicant, permittee, or other person. All well construction, reconstruction and sealing permits issued by the County shall expire after one year unless permitted work is in progress.
4. **Emergency Conditions.** In emergency conditions, as defined in Minnesota Rules 4725.1838, which occur at times other than usual business hours, the licensee may proceed with construction or reconstruction providing that the work complies with all other provisions of this Ordinance. The required permit application and all fees shall be submitted the first business day after the emergency situation.
5. **Fees.** The Board of Commissioners shall, by resolution, establish fees for permits required by this Ordinance. Permit fees are due and payable at the time of permit application.

SECTION 6 VARIANCES

A request for a variance from specific requirements contained in Minnesota Rules Chapter 4725 must be submitted and acted upon by the Minnesota Department of Health pursuant to Minnesota Rules, Chapters 4725 and 4717. Le Sueur County shall provide comments and/or recommendations to the Minnesota Department of Health on each variance request. If the request for a variance is approved by the Minnesota Department of Health, the County shall accept that decision

and allow the construction, reconstruction or sealing to proceed pursuant to any conditions of that approval.

SECTION 7 INSPECTION

1. **Authority/Access to Premises.** Inspections for the construction, reconstruction and the sealing of wells shall be conducted by a well inspector. Upon request of Le Sueur County, the applicant, permittee and any other person shall allow access at any reasonable time to the affected property for the purpose of inspection. No person shall hinder and otherwise interfere with the County in the performance of their duties and responsibilities pursuant to this Ordinance.
2. **Notification.** It shall be the duty of the well contractor to notify the Well Inspector(s) in person, by telephone, or in writing as to time when construction, reconstruction or sealing shall begin. Notice for inspection shall be made a minimum of two (2) hours prior to the time that inspection is desired. If a well inspector is not present for an inspection at the designated time, the contractor/permittee may proceed and shall file a well record with the County.

SECTION 8 WELL RECORDS

All copies of Minnesota Department of Health well records and water sample analysis reports shall be submitted by the water well contractor to the County within 30 days of completion of the well construction, reconstruction, or sealing.

SECTION 9 UNUSED, UNSEALED WATER WELLS

1. County Well Inspector(s) are authorized to take steps necessary to locate and identify unused, unsealed wells and specify corrective actions. In addition, the County is required to conduct investigations of wells identified through the Well Disclosure process mandated by MN Statutes Chapter 103I and to adequately resolve the status of those wells.
2. The existence of an unused, unsealed water well is a threat to ground water quality and poses a public health threat for potable water supplies. Therefore, pursuant to Minnesota Statutes Section 103I.111 Subd. 6, an unused, unsealed well that is not under an annual Maintenance permit is declared to be a public health nuisance and shall be abated as such under Minnesota Statutes Chapter 145A.
3. **Maintenance permit.** Owners of existing wells that are defined as unused, unsealed may request a Maintenance Permit from the County. The County shall review the permit application upon

submission. If application is complete and in compliance with Minnesota Rules Chapter 4725, a permit shall be issued. A permit shall not be issued for a well that is required to be sealed by Minnesota Rules Chapter 4725 or Minnesota Statutes, section 1031.301. These permits must be renewed and fee paid on or before January 15th of each year.

SECTION 10 USE OF EXISTING WELLS FOR NEW CONSTRUCTION

An existing well that does not meet the current standards for new well construction required by this Ordinance may be used as a source of water supply for a building if the continued use of the well will not present a threat to the quality of the ground water or present a safety hazard.

SECTION 11 ADMINISTRATIVE ENFORCEMENT

The following methods of enforcement are authorized for use the by the Le Sueur County Board of Commissioners:

1. **Verbal orders.** Well Inspectors may issue verbal orders for the correction of errors, omissions and violations noted during inspections for immediate correction.
2. **Stop Work Order.** If conditions warrant, and immediate correction is not possible, the well inspector may order the contractor to stop work until subsequent authorization to proceed is received.
3. **Notice of Violation.** Unresolved and either separate, recurrent or continuing violations of this Ordinance by the applicant, permittee or other persons as determined by inspections, reinspection or investigations shall constitute nonconformance or noncompliance with this Ordinance. This may be cause to issue a Notice of Violation.

A written Notice of Violation shall be served by certified mail or by personal service upon the applicant, permittee, contractor or other person found to be in violation of this Ordinance. A Notice of Violation shall, at a minimum, contain the following:

- a) A statement documenting the finding of fact through inspections, reinspection or investigations;
- b) A list of specific violations of this Ordinance;
- c) The specific requirements for correction or removal of said violations;
- d) A mandatory time schedule for correction, removal and compliance with this Ordinance; and
- e) Specific enforcement actions that may be taken if corrective action is not completed.

4. **Recovery of State Bond.** Licensed well contractors are required by Minnesota Statutes part 1031.525, Subd. 5 to maintain a corporate surety bond conditioned to pay the State on unlawful performance of work regulated by Minnesota Statutes Chapter 1031 and Minnesota Rules, Chapter 4725. The County will request recovery, through the Minnesota Department of Health, of the state bond for violations that remain unresolved. Before a request for bond recovery is initiated, the County will:
- a) Not seek recovery unless and until it is proven by a fair preponderance of evidence, that the contractor is responsible for the existence of a violation of Minnesota Rules, Chapter 4725; and
 - b) The contractor has been given a reasonable opportunity to correct the violation before the County proceeds against the bond.

SECTION 12 CRIMINAL PENALTIES

Any person who violates the terms of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by up to 90 days in jail or \$1000 fine or both. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

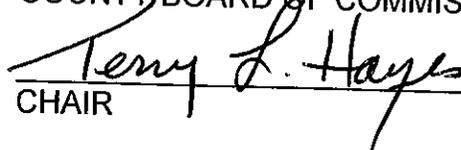
SECTION 13 REPEAL

The existing Le Sueur County Ordinance #91-12 adopted December 17, 1991, is hereby repealed upon the effective date of this Ordinance.

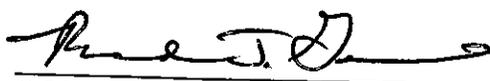
SECTION 14 EFFECTIVE DATE

This Ordinance shall be in full force and effect commencing September 8, 2004.

COUNTY BOARD OF COMMISSIONERS


CHAIR

ATTEST


COUNTY AUDITOR