

THE COUNTY BOARD OF WINONA COUNTY ORDAINS:**THE WATER QUALITY ORDINANCE****FOR THE COUNTY OF WINONA****Well Construction Ordinance for Winona County**

An ordinance providing for the proper construction, reconstruction and sealing of water wells, monitoring wells, and dewatering wells.

SECTION 1. PURPOSE

- 1.01 The Winona County Board accepts the premise that an abundant source of potable water is essential to the maintenance of the public's health and the continued economic and social development of the County.
- 1.02 Winona County has an extensive supply of ground water. These waters are subject to contamination from a variety of sources. Because of the Karst geology, it is essential that all wells be properly constructed and that all wells not in use be properly sealed to prevent contaminated waters from entering the groundwater through unseated abandoned wells.
- 1.03 These provisions are adopted for the purpose of halting the travel of pollutants to the subsurface water supply through improperly sealed or unsealed unused water wells and to assure proper development of new well water supplies.
- 1.04 This ordinance provides for the control of construction, reconstruction and sealing of wells in Winona County, Minnesota, and provides penalties for improper construction, reconstruction and sealing of said wells.

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**SECTION 3. HEALTH AUTHORITY: DUTIES OF WINONA COUNTY COMMUNITY
HEALTH BOARD**

- 3.01 It shall be the duty of the Winona County Community Health Board, to implement this ordinance; to receive notification of construction or reconstruction of all water wells; to receive notification of sealing of all water, monitoring, and dewatering wells; to issue all permits of all monitoring and dewatering wells; to make reports required by this ordinance; to take complaints to the County Attorney; to examine work in progress, to determine compliance with all provisions of this ordinance and to keep proper records on all transactions conducted under this ordinance.
- 3.02 The Winona County Environmental Services Department - Environmental Health Division and its authorized agents are hereby given authority to make inspections and perform tests necessary in the performance of this duty; to order the suspension of 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.
- 3.03 The Winona County Community Health Board and its authorized agents, the employees of the Winona County Environmental Services Department - Environmental Health Division, herein designated the Health Authority, shall enforce the terms of this Ordinance in Winona County, pursuant to the authority of Minnesota Statutes 145A.05, 145A.07, and 145A.10. The provisions of Minnesota Rules Chapter 4725 (November 15, 1993 Edition) and Minnesota Statutes Chapter 103I are hereby incorporated in and made a part of this Ordinance. This Ordinance shall not apply to community public water supply wells which are inspected by the Minnesota Department of Health.

SECTION 4. NOTIFICATION REQUIREMENTS**4.01 Notification Required**

- Subd. 1 No licensee or other entity shall construct or reconstruct a water well within the County of Winona, Minnesota, without having first notified Winona County Environmental Services Department - Environmental Health Division. For the purpose of this ordinance, water wells shall include drive point/sandpoint wells. Reconstruction shall be defined as work which includes the removal or insertion of the well casing, screen, or modification to the well diameter or depth below the upper termination of the well casing (the point 12" above grade).
- Subd. 2 No licensee or other entity shall seal a water well, monitoring well or dewatering well within the County of Winona, Minnesota, without having first notified Winona County Environmental Services Department - Environmental Health Division.
- Subd. 3 No notification shall be required for well or pump repairs or installation that may be performed by limited contractors under the terms of Minnesota Rules, Chapter 4725.

4.02 Notification for Well Construction or Reconstruction

- Subd. 1 Notification for water well construction, reconstruction, or notification of water well, monitoring well or dewatering well sealing shall be made in writing and signed by a water well contractor licensed by the State of Minnesota, the property owner, or owner's agent. Such notification shall be made upon forms furnished by the Health Authority. The original notification shall remain on file in the office of the Health Authority. This notification shall be submitted prior to any construction, reconstruction, or well sealing.
- Subd. 2. The notification shall be submitted on forms prepared by the Health Authority and shall contain:
- a) A legal description of the land where the well is or will be located.
 - b) Name, address, telephone number of the land owner, licensee, and well owner as applicable.
 - c) A copy of the written agreement required by Minnesota Statutes 103I.205 Subd. 8 when a well is to be located on property not belonging to the well owner.
 - d) Minnesota Unique Well Number or H Number as applicable.

4.03 Exemptions and Additional Requirements

- Subd. 1 State and local units of government shall be exempt from well notification fees.

- Subd. 2 Exploratory borings for oil and uranium in the rural and unincorporated areas of Winona County shall comply with the regulations outlined in Chapter 7, Section 723 of the Winona Zoning Ordinance.

SECTION 5. PERMIT REQUIREMENT FOR MONITORING & DEWATERING WELLS

5.01 Permits Required

- Subd. 1 No licensee or other entity shall construct a monitoring or dewatering well within the County of Winona, Minnesota, without having first obtained a permit to do so from Winona County Environmental Services Department - Environmental Health Division.

5.02 Application for a Well Construction Permit

- Subd. 1 An application for a permit shall be made in writing and signed by a water well, limited dewatering well or monitoring well contractor as applicable, licensed by the State of Minnesota and the well or property owner. Such application shall be made upon forms furnished by the Health Authority. The original application shall remain on file in the office of the Health Authority. This application shall be submitted and the permit issued prior to any construction or reconstruction.

- Subd. 2 The application shall be submitted on forms prepared by the Health Authority and shall contain:

- a) A legal description of the land where the well is or will be located.
- b) Name, address, telephone number of the land owner, the well owner, and licensee.
- c) A copy of the written agreement required by Minnesota Statutes 103I.205 Subd. 8 when a monitoring or dewatering well is to be located on property not belonging to the well owner.
- d) Well construction details, site plan, and Minnesota Unique Well Number(s).

5.03 Rejection of Application

If after consideration of the application for permit, the Health Authority deems that the work contemplated will not comply with the provision of this ordinance, the Health Authority shall refuse to issue a permit until such application has been revised or corrected.

5.04 Alteration of Plans

Any construction authorized by the approved application and any accompanying plat or scale drawing shall not be altered or modified without consent of the Health Authority.

5.05 Expiration of Permit

Any well construction permits issued hereunder by the Health Authority shall expire in the time periods outlined in Minnesota Rules 4725.1825 (G) and 4725.1830 (I), as applicable, unless the work contemplated and authorized is in actual progress.

5.06 Exemptions

- Subd. 1 An uncased monitoring well that is sampled during drilling and which is sealed upon completion is exempt from permit and permit fee requirements.
- Subd. 2 State and local units of governments or their designated contractors shall be exempt from monitoring and dewatering well permit fees.

SECTION 6. MAINTENANCE PERMIT

6.01 Application for Maintenance Permit

- Subd. 1 Except for new well construction, any well that is not in use and is inoperable must be sealed or have an annual maintenance permit. Application shall be made on forms furnished by the Health Authority and shall contain:

- a) A legal description of where the well is located.
- b) Name, address, telephone number of the land owner and/or well owner.

The original application shall remain on file in the Office of the Health Authority.

- Subd. 2 New water well construction not placed into service within 18 months of completion shall obtain a maintenance permit.

6.02 Rejection of Application

If after consideration of the application for permit, the Health Authority deems that the well will not meet with the provisions of Minnesota Statutes, Chapter 103I and Minnesota Rules, Chapter 4725, the Health Authority shall refuse to issue a maintenance permit until such conditions are corrected.

6.03 Monitoring Wells & Dewatering Wells

Maintenance permits will be required for monitoring wells and dewatering wells not sealed after the time period specified by Minnesota Rules, Chapter 4725 and Minnesota Statutes, Chapter 103I.

6.04 Expiration

A maintenance permit issued hereunder by the Health Authority shall expire after one year. Notice of expiration shall be furnished by the Health Authority. It is the

responsibility of the maintenance permit holder to reapply or seal the well within 30 days of the expiration date.

SECTION 7. EMERGENCY NOTIFICATIONS & PERMITS

- 7.01 The standards set by Minnesota Rules, Part 4725.1838 shall govern. Notifications and applications for permits may be made verbally to representatives of the Health Authority. A list with telephone numbers of such representatives shall be provided by the Health Authority upon request. Should those representatives be unavailable, work shall proceed and notice shall be provided at the first possible opportunity.

SECTION 8. ADDITIONAL REQUIREMENTS

8.01 Work Not Authorized

No licensee or other entity shall continue work on any well after the Health Authority shall have issued in writing, a notice to suspend work. The use of material or machinery shall not be continued whenever use of the material or machinery is contrary to the provisions of this ordinance. Any notice 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 well-contractor and well owner.

8.02 Access to Premises

An applicant for a notification or permit under this Ordinance shall, upon the request of the Health Authority, permit access to the affected premises at any reasonable time for the purpose of inspection. No person shall interfere with or hinder the Health Authority in the performance of their duties, or refuse to permit the Health Authority to make inspection required by this Ordinance.

8.03 Fees

Any licensee or other entity shall pay a fee for a well construction notification or permit at a rate specified by resolution of the County Board of Commissioners for Winona County. Such rates may be changed by resolution of the County Board of Commissioners for Winona County from time to time as they shall deem appropriate.

SECTION 9. APPEAL & VARIANCES

9.01 Appeal Process

The Board of Commissioners of Winona County shall act upon appeals. Any person wishing to appeal any action taken by the County pursuant to this Ordinance may request a hearing. The appeal must be received by the County within thirty (30) calendar days, exclusive of the day of receipt of notice, after the person received notice of the action taken by the County. The request shall be in writing stating the

grounds of the appeal. If a person fails to submit an appeal within the requested time period, the person shall forfeit any opportunity for a hearing. The County shall schedule a hearing within thirty (30) days of receipt of the notice of appeal, and shall send to the appellant by mail notice of the hearing date, time and location pursuant to this Section. If the appellant or his or her authorized representative fails to attend the hearing, the appellant shall forfeit any right to a hearing. The Winona County Board shall send to the appellant by mail notice of the decision of the Winona County Board within ten (10) days after the close of the hearing.

9.02 VariANCES - State of Minnesota Approval

An affected party may request a variance from the specific requirements of this Ordinance. A variance must first be approved by the Minnesota Commissioner of Health or their representative pursuant to the provisions of Minnesota Rules, Chapter 4725. Upon approval of the Commissioner, the applicant must submit a request for a variance to the Community Health Board for consideration.

9.03 VariANCES - County Approval

Subd. 1 The Community Health Board shall have authority to consider variances after state approval has been given.

a) with respect to existing wells, whenever it's not practical or advisable to require strict compliance with the structural requirements of this Ordinance, the Community Health Board may approve a variance from such provisions when in its judgment existing conditions are of an acceptable compliance with the spirit and intent of the Ordinance and will protect the public's health, safety, welfare and water quality.

b) with respect to proposed new wells, variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control and when the terms of the variance are consistent with the comprehensive plan. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to their property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute hardship if a reasonable use for the property exists under the terms of the ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The Community Health Board may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.

Subd. 2 Procedure for Requesting Variance

a) An application for a variance shall be filed with the Health Authority, the application shall be accompanied by development plans showing such information as the Health Authority may reasonably require for purposes of this Ordinance. The plans need not meet engineering or construction details so long as they contain

sufficient information for the Community Health Board to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases the application shall include:

- i) Name and address of the applicant.
- ii) The legal description of the property involved in the request for the variance.
- iii) The names and addresses of owners of the property.
- iv) A site plan showing all pertinent dimensions, buildings and significant natural features having an influence on the variance.
- v) All necessary State and Federal permits.
- vi) The variance request and a statement or peculiar hardship involved in creating the need for a variance.
- vii) Certification of approval by the Minnesota Commissioner of Health or their representative.
- viii) All materials provided to the State for approval of the State variance.

Subd. 3 All decisions by the Community Health Board in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after the receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.

Subd. 4 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 said order of denial, except on the grounds of new evidence or proof of change on conditions determined to be valid.

Subd. 5 A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and automatically terminates the variance.

Subd. 6 In exercising its authority to review any order, requirement, decision or determination made by any administrative official, the Board shall not grant any appeal or variance unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Community Health Board may require:

- a) That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
- b) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and that the granting of the variance will not degrade the water quality of the affected aquifers.

- Subd. 7 In the case of variances, they shall only be permitted when they are in harmony or in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

SECTION 10. WATER WELL RECORD

- 10.01 A copy of the Minnesota Department of Health water well record and/or well sealing record shall be submitted by the Minnesota licensed well contractor to the Health Authority within 30 (thirty) days of completion of water well construction or reconstruction and sealing abandoned wells.

SECTION 11. CONSTRUCTION STANDARDS

- 11.01 Minnesota Rules, Chapter 4725 governs. Where ambiguity in application of the Rules exists, the County shall consult with the Minnesota Department of Health.

SECTION 12. ACCEPTABILITY OF A WATER-BEARING INFORMATION FOR A POTABLE WATER SUPPLY

- 12.01 In the absence of other data or policy provided by the Minnesota Geological Survey or Minnesota Department of Health the following provisions shall apply:
- Subd. 1 Organisms of the coliform group present in the water supply shall be considered indicative of pollution and shall not be present in the finished well.
- Subd. 2 Nitrate nitrogen in excess of 10.0 parts per million shall also be considered indicative of pollution and shall require the well contractor and Health Authority to evaluate the water supply.
- Subd. 3 Prior to completing construction of the well in the aquifer as permitted the Health Authority may require, the well contractor to arrange for testing of the water for nitrate nitrogen after installing liner casing but before grouting. The Health Authority may require the sample or a duplicate sample be submitted to its laboratory for analysis. If the nitrate nitrogen level is less than 10.0 ppm, the well contractor may proceed with grouting after the required notice to the Health Authority.
- Subd. 4 If the pregrouting nitrate nitrogen level is 10.0 ppm or greater, the well shall be drilled and cased deeper to obtain water meeting the pregrouting requirements stated above.

SECTION 13. ABANDONED WELLS

- 13.01 Minnesota Rules, Chapter 4725 governs. Where ambiguity in application of the Rules exists, the County shall consult with the Minnesota Department of Health.

SECTION 14. MINNESOTA DEPARTMENT OF HEALTH

- 14.01 The requirements contained in this Ordinance are intended to be comparable to the laws and regulations concerning well construction in the State of Minnesota. Whenever the Minnesota Department of Health amends existing rules or adopts new rules than the ones established in this Ordinance, the regulations set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.

SECTION 15. PENALTIES15.01 Misdemeanors

Any person who violates this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 16. SEVERABILITY

- 16.01 If any provision or application of any provision of this ordinance is held invalid, that invalidity shall not affect other provisions or application of this ordinance.

SECTION 17. EFFECTIVE DATE

This ordinance shall be in full force and effect commencing July 11, 1995.

Adopted this 11th day of July, 1995.

COUNTY BOARD OF COMMISSIONERS


VICE-Chairperson

ATTEST:


Clerk/County Coordinator

Pub. Fri., May 19, 1995
**NOTICE OF PUBLIC
HEARING TO CONSIDER
AMENDMENTS TO THE
WATER QUALITY
ORDINANCE FOR THE
COUNTY OF WINONA**

PLEASE TAKE NOTICE that the Winona County Community Health Board will meet in public hearing on June 13, 1995, at 11:00 a.m. in the Commissioners' Room, Winona County Courthouse, Winona, Minnesota, to consider amendments to the Water Quality Ordinance for the County of Winona.

In summary, the general purpose of the amended ordinance is to provide for the proper construction, reconstruction and sealing of water wells, monitoring wells and dewatering wells.

Printed copies of the amended ordinance are on file in the Offices of the County Coordinator, County Auditor, and Environmental Services, and are available for public inspection during regular office hours.

Judy Gilow
Chairperson, Winona County Community Health Board
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WINONA DAILY NEWS
PUBLIC NOTICE
AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
) SS.
COUNTY OF WINONA)

Rochelle M. Pervisky, being duly sworn, on oath says that she is the authorized agent and employee of the publisher of the newspaper known as Winona Daily News, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Public Hearing - Water Quality Ordinance

which is attached was cut from the columns of said newspaper, and was printed and published Friday the 19th day of May, 1995; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxy

BY: Rochelle M Pervisky
Classified Manager

Subscribed and sworn to before me on this
19th day of May,
1995.

Karen Domine

Notary Public



RATE INFORMATION

(1) Lowest Classified rate paid by commercial users for comparable space	\$ <u>.810</u> Line rate
(2) Maximum rate allowed by law for the above matter	\$ <u>.540</u> Line rate
(3) Rate actually charged for the above matter	\$ <u>.267</u> Line rate