

LEE COUNTY ORDINANCE NO. 06-09

“LEE COUNTY WELL CODE”

A PROPOSED ORDINANCE
REPEALING AND REPLACING
LEE COUNTY ORDINANCE 00-15
RELATING TO THE
LEE COUNTY WELL CODE

LEE COUNTY ORDINANCE NO. 06-09

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE 00-15 RELATING TO THE LEE COUNTY WELL CODE; PROVIDING FOR REPEALER, PURPOSE AND SHORT TITLE, AND ADOPTION BY REFERENCE: FLORIDA ADMINISTRATIVE CODE RELATING TO WELLS; PROVIDING FOR TERRITORIAL SCOPE; PROVIDING FOR DEFINITIONS; PROVIDING FOR WELL USE CLASSIFICATIONS; PROVIDING FOR ESTABLISHMENT OF THE WELL CONSTRUCTION ADVISORY BOARD; PROVIDING FOR COMPLAINTS, MEDIATIONS, FORMAL HEARING PROCESS, AND APPEALS; PROVIDING FOR PERMITTING PROCEDURES; PROVIDING TEST WELL REQUIREMENTS; PROVIDING FOR DRILLING INSPECTORS AND INSPECTIONS; PROVIDING FOR CONSTRUCTION OF WELLS, BORINGS, AND SHAFT HOLES; PROVIDING FOR LICENSING; PROVIDING FOR SUPPLEMENTAL REGULATIONS; PROVIDING FOR PENALTIES AND A FEE SCHEDULE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, SCRIVENER'S ERROR, AND AN EFFECTIVE DATE.

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WELL CODE
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WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Lee County Board of County Commissioners recognizes the importance of safeguarding water resources; and,

WHEREAS, the Lee County Board of County Commissioners realizes the importance of safeguarding life, health, and public welfare; and,

WHEREAS, the Lee County Board of County Commissioners further appreciates the need for the development and maintenance of better well drilling and standardizing drilling and other practices; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

SECTION ONE:

1.1 REPEAL OF EXISTING COUNTY ORDINANCE(S).

Lee County Ordinance No. 00-15 is hereby repealed and declared null and void as of the effective date of this Ordinance.

1.2 PURPOSE AND SHORT TITLE.

This Ordinance is known and cited the Lee County Well Code (“Well Code”). This Ordinance provides minimum requirements for safeguarding life, health and public welfare by regulating and controlling design, construction, alteration, repair, equipment, location, maintenance, and plugging of wells, borings, and elevator shafts in Lee County. The Well Code is dedicated to development and maintenance of better well drilling, to safeguarding

water resources, and to standardizing drilling and related practices.

1.3 **ADOPTION BY REFERENCE: FLORIDA ADMINISTRATIVE CODE RELATING TO WELLS.**

The Board hereby adopts by reference and incorporates herein, as a part of this Ordinance, all applicable provisions of Chapters 40E-3, 62-532, 64E-6, and 64E-8, Florida Administrative Code as may be amended from time to time. In the event of a conflict between state regulations and this Ordinance, the more stringent requirement should be applied.

SECTION TWO: TERRITORIAL SCOPE

This Ordinance shall be applicable in all areas of Lee County where no other such regulatory programs are administered by another agency or municipality.

SECTION THREE: DEFINITIONS

The following definitions are established for purposes of, and apply to, this Ordinance:

ABANDONED WELL – A well having any one of the following characteristics:

- without a valid South Florida Water Management District (SFWMD) Water Use Permit; or
- that is not capable of being operational throughout the year; or
- whose construction does not meet State or County standards; or
- which is not approved by Lee County Natural Resources Division (hereinafter referred to as NRD) within ninety (90) days of inspection completion; or
- whose purpose or use has been permanently discontinued; or

- which is in a such a state of disrepair that its purpose cannot be reasonably achieved; or
- a source of ground water contamination; or
- that is detrimental to water resources of Lee County as determined by NRD or SFWMD.

AFTER-THE-FACT INSPECTION – An inspection conducted where one or more of the critical stages of well construction were not witnessed by a NRD well inspector.

ANNULUS OR ANNULAR SPACE - Any artificial void created during construction of a borehole, or existing between a well casing and a borehole wall, or between an inner and an outer casing.

APPROVED - Approved by the NRD or other authority having jurisdiction over the proposed activity.

APPROVED MATERIALS - Materials specified by Chapter 40E-3, Florida Administrative Code, as it may be amended from time to time, and as otherwise specified in this Ordinance.

AQUIFER – A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield useful quantities of groundwater to wells, springs, or surface water.

ARTESIAN WELL - Any artificial hole in the ground from which water supplies may be obtained and which penetrates any water-bearing rock, the water of which is raised to the surface by natural flow, or which rises to an elevation above the top of the water-bearing bed. Artesian wells are defined further to include all holes, drilled as a source of water, that penetrate any water-bearing beds that are a part of the

artesian water system of Florida.

ARTIFICIAL RECHARGE - The introduction of any fluid substance into any underground formation.

BENTONITE - A material used in the drilling industry and available in the following different grades:

- Non-drilling grade: Specially processed, coarse ground bentonite.
- Drilling grade: Specially processed, fine-ground bentonite used in make up of drilling mud and as an additive to cement grout.

BOARD - The Board of County Commissioners of Lee County, Florida.

CASING DIAMETER – Also referred to as “diameter of casing” is the largest nominal permanent water-bearing casing. For the purpose of this Ordinance, the diameter of the casing at the upper terminus will be presumed to be the diameter for the entire length, unless the well owner or Contractor can demonstrate that the well has a smaller diameter permanent water bearing casing below the upper terminus.

CONSOLIDATED – A geologic stratum, which is cemented with a binding substance commonly derived from within the deposit containing that stratum.

CONTRACTOR – See definition for **Water Well Contractor**.

CONSTRUCTION OF WATER WELLS - All parts and acts necessary to obtain or dispose of water by wells, including the location and excavation of the wells, but excluding the installation of pumps and pumping equipment.

CRITICAL STAGES – The stages of well construction considered by NRD to be critical for insuring and independently determining that a well is properly constructed. These critical stages of well construction are summarized as follows:

- Drilling the well borehole to the depth that the well casing(s) will be installed;
- Installation of the well casing(s) to the desired casing depth(s);
- Installation of the well casing(s) annular space grout seal; and
- Drilling the well borehole to the total depth that the well will be constructed (i.e. drilling open hole of the well or production interval).

DIRECTOR - The Director of the Lee County NRD or any other Division as designated by the Board; or his/her duly authorized representative, who the authority is charged with the administration and enforcement of the Ordinance.

DISCIPLINARY GUIDELINES – Appendix B attached hereto and incorporated herein as “Well Contractor’s Disciplinary Guidelines” specifies procedures, fines and penalties for selected violations.

DOMESTIC WELL – A water supply well installed and utilized to provide water for up to four (4) individual residential unit(s), where, if multiple units are supplied, not more than one unit is utilized as a rental unit.

DRILLER - Any person working under the direct supervision of a licensed water well contractor, who actually operates a drill rig to construct, repair, or abandon a well, boring, or an elevator shaft.

DRILLING EXPERIENCE - The physical operation of a drilling rig under the direct supervision of a licensed water well contractor for the purposes of construction, repair and abandonment of wells, borings, or elevator shafts.

DRIVE SHOE - Any device specifically designed, fabricated, and installed to protect the bottom end of a water well casing from collapse or other damage while the casing is being driven into place in a water well.

ELEVATOR SHAFT - A double-cased and grouted hole constructed into the earth's surface to provide for the movement of hydraulic rams used to lift and lower elevator cars.

ELEVATOR SHAFT CONTRACTOR – A Lee County licensed drilling contractor with an elevator shaft specialty drilling license.

EMERGENCY NEED – The need to install a replacement water supply well, not including an irrigation well, in response to failure of an existing water supply well to yield water, where the existing well failure has resulted in a loss of water supply and no temporary water supply is readily available to the residential or commercial user.

EXISTING WELL INSPECTION– An inspection performed by NRD staff to confirm compliance of an existing well with the requirements of this Ordinance and Lee County Administrative Code AC 12-4.

FIRE WELL - A well installed and utilized solely for providing water supply sufficient for fire fighting purposes.

GEOTECHNICAL BORING – Also referred to as a test boring, a test hole, or a standard penetration test is a boring performed with a drilling rig to obtain information and data on subsurface conditions for engineering design.

GEOTECHNICAL BORING CONTRACTOR - A Lee County licensed drilling contractor with a geotechnical boring specialty drilling license.

GEOTHERMAL WELLS – A combination of a supply well and an injection well

installed to utilize the natural thermal characteristics of groundwater for heating and cooling. Groundwater withdrawn by geothermal wells does not typically result in changes in water quality or consumptive use (i.e. the same quality and quantity of water withdrawn from the supply well are returned to the same aquifer through the injection well).

GROUNDING ROD BORING – A borehole constructed for installation of a metallic rod into the earth for the purpose of short circuiting electrical power or protection against accidental electrocution.

GROUND WATER - The water that occurs beneath the land surface in which the pore spaces in the subsurface formations are fully saturated and under atmospheric or greater pressure.

GROUTING MATERIAL – One of the following mixtures used for grouting or plugging annulus or annular space created during a permitted activity:

- Portland cement grout, with or without additives.
- Any other grouting material approved in writing by the NRD.

GROUTING OF WELLS - The placement of grouting material in the annulus or annular space of a well from the bottom of the casing to ground level so as to prohibit the movement of ground water from one aquifer to another. Grouting may be by tremie pipe or pressure method, whichever is appropriate.

HORIZONTAL WELL - An excavation into which a fabric covered, perforated or slotted casing is laid horizontally for the purpose of withdrawing ground water. Withdrawals are made through vertical risers at either end of the horizontal section. Risers are constructed and grouted in accordance with this Code.

INJECTION WELL - A well designed and constructed for the purpose of pouring or pumping water, or some other liquid, into a ground water formation.

IRRIGATION WELL – A well installed and utilized solely for providing water to irrigate landscaping or agricultural crops.

LOWER TAMIAMI AQUIFER - The water-bearing formation typically occurring immediately below the first regional confining zone (“green clay layer”) in south Lee County as delineated on Plate 13 of the Lee County Water Management Project, October 5, 1988, completed by James M. Montgomery Consulting Engineers, Inc., or as depicted on a more recent study acceptable to NRD.

MONITORING WELL – Also referred to as observation well, used for monitoring the quality of water, fluctuation of water levels, or other purposes concerning hydrologic conditions.

MONITORING WELL CONTRACTOR - A Lee County licensed drilling contractor with a monitoring well specialty drilling license.

NEAT CEMENT GROUT - A mixture consisting of water and Portland cement (American Concrete Institute Types I, II, or III), without additives, or other types of cement as approved by the NRD having maximum allowable six (6) gallons of water per bag of Portland cement.

NON-ARTESIAN WELL OR WATER-TABLE WELL - A well in which the water does not arise above the source bed; i.e., a drive point or dug well, or other well which does not penetrate a confining bed.

PERSON - Any and all persons, including, but not limited to, any individual, firm, association, organization, partnership, business, trust, corporation, company, or

governmental agency.

PRIVATE WATER SYSTEM WELLS – Wells that are being used to produce water for human consumption and other domestic purposes serving one or two single-family residences, one of which may be rental. A multi-family water system serves three or four residences, one of which may be rental.

PROCEDURES MANUAL – “Appendix A” attached hereto and incorporated herein as the “Procedures Manual for Issuance of Permits for Well Construction and Abandonment” periodically provides more details to selected methods, materials, procedures and policies that are described, in general terms, in the Lee County Well Code.

PUBLIC WATER SUPPLY WELL – A well serving a public water supply system.

PUBLIC WATER SUPPLY SYSTEM - Any system having at least fifteen (15) service connections or serving an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year or a Limited Use Commercial/Community Public Water Systems (LUCPWS).

RECOVERY WELL - A well constructed for the purpose of allowing free-product hydrocarbons or other contaminants to be withdrawn from the ground water.

REINSPECTION - Additional inspections due to untimely cancellations of proposed work, violations or non-compliance, which are required during or after the construction has been completed.

REPAIR - Any action which involves the physical alteration or replacement of any part of a well, excluding acidizing, but does not include the alteration or replacement of any part of a wellhead, which must be maintained at a minimum of twelve (12)

inches above finished grade.

REPEAT VIOLATION – A violation of a provision of this Ordinance or of Chapter 40E-3, Florida Administrative Code (F.A.C.), by a person who has been previously found by NRD, Well Construction Advisory Board, or any other quasi judicial or judicial process, to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violation occur at different locations.

REPLACEMENT WELL – A well intended to replace an existing well, installed for the same purpose or use as the existing well.

SFWMD - South Florida Water Management District.

SAND-POINT WELL - Any device which is driven and/or washed into place in unconsolidated surficial earth materials, and which consists of a pipe with an attached perforated or screened end, designed to permit the passage of water.

SPECIAL CONDITIONS – Specific permit conditions included in the Well Construction Permit to insure compliance with intentions of this Ordinance or Chapter 40E-3, Florida Administrative Code.

SPECIALTY LICENSE – Lee County drilling contractor licenses issued specifically for the installation of monitoring wells, geotechnical borings or elevator shafts.

TEST WELL, BORING, OR ELEVATOR SHAFT - Any well, boring, or shaft constructed for the purpose of obtaining data for engineering and/or seismography, geophysical or geological exploration; prospecting for minerals or products of mining or quarrying; or for placement of hydraulic rams, but not for the purposes of either producing or disposing of water.

TREMIE PIPE – A pipe or tubing of smaller diameter relative to the well casing pipe utilized for the emplacement of grout for sealing the annulus or annular space.

64E-8 (Chapter 64E-8 Florida Administrative Code) WELL - A well meeting the minimum requirements for a well system as set forth in Chapter 64E-8, Florida Administrative Code (F.A.C.), or any successor regulation to Chapter 64E-8 which regulations prescribe minimum water quality standards for uses similar to those covered by Chapter 64E-8.

UNDERGROUND FORMATION - Any subsurface stratum or strata, consolidated or unconsolidated, lying beneath the surface of the ground.

VIOLATION – Non-compliance with requirements of this Ordinance or Chapter 40E-3, F.A.C.

WATER OR WATERS OF THE COUNTY - Any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the geographical boundaries of Lee County.

WATER/MONITORING WELL - Any excavation beneath the earth's surface that is drilled, cored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, monitoring, acquisition, development, or artificial recharge of ground water, but such term does not include wells for the purpose of obtaining or for prospecting for oils, natural gas or minerals.

WATER WELL CONTRACTOR (Also referred to hereinafter in this Ordinance as Contractor) - Any person actively engaged in the business of the construction,

repair or abandonment of wells, borings, or elevator shafts with a valid Lee County well contractor license.

WELL CONSTRUCTION ADVISORY BOARD - Also referred to as the Advisory Board appointed by the Lee County Board of County Commissioners of Lee County, Florida, to advise the Director concerning the administration of this Ordinance and the regulation of the drilling industry and other such duties as may be established in this Ordinance.

WELL DEVELOPMENT – The aggressive, forceful and vigorous withdrawal of residuals from a well, usually through pumping compressed air, following drilling a borehole, performed in a manner that ensures complete removal of drilling mud, drill cuttings and other debris present in the well.

SECTION FOUR: WELL USE CLASSIFICATIONS

4.1 GENERAL.

Every new and existing well shall, for the purpose of this Ordinance, be classified according to use, purpose, size and land use as described hereinafter.

4.2 WELL CLASSIFICATIONS.

- (1) Domestic Well
- (2) Irrigation Well
- (3) Test Well
- (4) Public Water Supply Well (includes LUCPWS wells)
- (5) Monitoring Well
- (6) Injection Well
- (7) Piezometer Well
- (8) Fire Well
- (9) Test Boring or Geotechnical Boring
- (10) Elevator Shaft (includes outer casing and grouting)
- (11) Geothermal Well (combination of supply and injection wells)

- (12) Replacement Well
- (13) Grounding Rod Boring
- (14) Recovery Well
- (15) Horizontal Well

4.3 LAND USE CLASSIFICATIONS.

- (1) Single Family
- (2) Duplex
- (3) Multi-Family
- (4) Commercial
- (5) Farm
- (6) Other

SECTION FIVE: COMPLAINTS, MEDIATIONS, FORMAL HEARING PROCESS, and APPEALS

5.1 WELL CONSTRUCTION ADVISORY BOARD.

By execution of this Ordinance by the Board of County Commissioners of Lee County, Florida, hereby creates the Well Construction Advisory Board (WCAB), also referred to as the Advisory Board.

The Advisory Board shall be composed of seven (7) members. The Advisory Board members with following qualifications appointed by resolution by the Lee County Board of County Commissioners shall be comprised as follows:

- (1) Four (4) licensed water well contractors actively engaged in well construction in Lee County and whose license is in good standing.
- (2) One (1) member who is not a Contractor but owns a well and is a resident of Lee County.
- (3) One (1) member from the Lee County Health Department, Environmental Engineering Division.
- (4) One (1) member from the South Florida Water Management District.

5.2 OFFICERS, QUORUM, AND RULES OF PROCEDURE.

(1) Each January, the membership of the Advisory Board shall elect a Chairperson and, Vice Chairperson from among the Advisory Board members. Officers' terms shall be for one (1) year with eligibility for re-election.

(2) The presence of four (4) or more members shall constitute a quorum of the Advisory Board necessary to take action and transact the business of the Advisory Board. In addition, an affirmative vote of four (4) or more members shall be necessary in order to take official action, regardless of whether four (4) or more members of the Advisory Board are present at the meeting.

(3) Rules of Procedure for Meetings: The Advisory Board shall, by majority vote of the entire membership, establish rules and regulations for its own procedures consistent with Lee County codes and ordinances, and adopt rules of procedure for the transaction of business. This procedure will become part of the Lee County Administrative Code. The Advisory Board will meet at regular intervals as determined by the Chairman, but not less than once a month unless a good cause is shown. All meetings will be conducted in accordance with Robert's Rules of Order.

The NRD or its designee will act as an *ex officio* secretary of the Advisory Board and will keep minutes of all meetings. An audio recording of the meeting will constitute the official record of the proceedings for any appeal purposes. Any person desiring to appeal a decision of the Advisory Board may request a transcript of the proceedings. The cost of transcription is the responsibility of the requesting party.

Copies of all Advisory Board minutes, resolutions, reports and exhibits will be submitted to the Lee County Board of County Commissioners for review and information.

(4) All Advisory Board meetings shall be open to the public.

(5) The Advisory Board shall comply with all Florida laws and rules relating to "Government in the Sunshine" (Chapter 286, F.S.), public records (Chapter 119, F.S.), and public officials (Chapter 112, F.S.).

(6) Members of the Advisory Board shall serve without compensation.

5.3 FUNCTIONS, POWERS AND DUTIES OF THE ADVISORY BOARD.

The functions, powers and duties of the Advisory Board shall be as follows:

(1) The Advisory Board shall hear appeals of denial of permits, orders to plug or rehabilitate wells and other matters as set forth herein. The Advisory Board shall advise the NRD on licensed applicants, content of licensing examination, quality of workmanship when a complaint is placed on a licensee, or well construction problems.

(2) The Advisory Board shall recommend amendments to this Ordinance, and shall have all other duties as prescribed under this Ordinance or any amendments thereto.

(3) The Advisory Board members will have equal voting rights on all issues before the Board.

5.4 REMOVAL FROM MEMBERSHIP.

Any member of the Advisory Board may be removed from membership with or without cause, by a majority vote of the Lee County Board of County Commissioners.

If any member of the Advisory Board fails to attend more than one-half of the Committee's meetings during any six-month period without a satisfactory excuse or if a member is absent from more than one-half of the Advisory Board's meetings, the Advisory Board may declare the member's seat to be vacant and the vacancy shall be filled by the Lee County Board of County Commissioners.

5.5 TERMS OF APPOINTMENT.

Each designated member shall serve for three (3) years. Thereafter, each appointment or reappointment shall be for a term of three (3) years. Appointments to fill any vacancies on the Advisory Board shall be for the remainder of the unexpired term.

5.6 ADVISORY BOARD DISCIPLINARY HEARING PROCEDURES (See Appendix B for Disciplinary Action Procedures Flow Chart).

5.6.1. Complaint

- (1) All complaints involving a violation of this ordinance are to be filed with the NRD. The NRD is responsible for the investigation of a complaint only if it is in writing and legally sufficient.
- (2) A complaint is legally sufficient if it contains the necessary facts to indicate a probable violation of this ordinance. During review for legal sufficiency, either the Advisory Board or the NRD may request additional documentation or information from the complainant. If there is a question as to whether the complaint is legally sufficient, the final determination will be made by the Lee County Attorney's Office.
- (3) The Advisory Board or NRD may investigate an anonymous complaint if:
 - (a) the complaint is in writing;
 - (b) legally sufficient;
 - (c) the alleged violation is substantial, and
 - (d) the NRD has reason to believe, after preliminary inquiry, that the violation alleged in the complaint is true.
- (4) Either the Advisory Board or the NRD may, on its own, initiate an investigation if there is reason to believe that a Contractor or a group of Contractors has committed a violation of this ordinance.

5.6.2 Investigation

- (1) The NRD must investigate all complaints that are in writing, signed by the complainant and found legally sufficient.
- (2) The NRD should furnish the subject Contractor or the subject Contractor's

attorney with a copy of the complaint or document that results in the initiation of an investigation.

- (3) The NRD may conduct an investigation without notification to the subject Contractor if the NRD makes a finding that notification will be detrimental to the investigation or if the act under investigation is a criminal offense.
- (4) The subject Contractor may submit a written response to the NRD concerning the information contained in the complaint or document within twenty (20) calendar days after receipt of notice regarding the complaint. This response will be included in any documentation sent to the Advisory Board for review.

5.6.3 Mediation

- (1) After the initial investigation, NRD staff may schedule a meeting with the complainant and/or Contractor. A representative from the Lee County Attorney's Office will act as mediator. This meeting will be considered an informal mediation session.
- (2) NRD's role at this meeting is to explain the nature of the violation, offer possible methods of achieving abatement.
- (3) The objective of this mediation session is to obtain a voluntary agreement identifying the action that will be taken to abate the violation. This "Assurance of Voluntary Compliance" agreement will be reduced to written form within five (5) working days after the meeting and become effective upon execution by all parties.
- (4) If the agreement is not executed within thirty (30) calendar days after the mediation session, the County may present the complaint to the Advisory Board for a probable cause determination and proceed to a formal hearing on the violation and resultant disciplinary action against Contractor.
- (5) Once the agreement is executed, the parties are required to comply with its written terms. If the Contractor fails to comply with the terms of the agreement, the County may present the complaint or voluntary agreement to the Advisory Board for a probable cause determination and proceed to formal hearing.
- (6) The NRD will retain a copy of the mediation agreement in the Contractor's file.
- (7) A Contractor can avoid the formal hearing process by entering into a mediation agreement and complying with its terms. However, a Contractor can use this method of addressing violations only three (3) times in any five

(5) year period. Once the threshold limit is met, the Contractor must obtain Advisory Board approval to enter into subsequent mediation agreements. The Advisory Board has the sole discretion to grant or deny approval.

- (8) Mediation is not mandatory. It is intended only as a means to obtain compliance on an expedited basis.

5.6.4 Probable Cause Determination

- (1) If, after the NRD conducts its investigation, the complaint is deemed legally sufficient, and the alleged violation would result in a practice restriction that either results in the suspension, revocation, or denial of a Contractor's license, the NRD will submit a request for Probable Cause Determination to the Advisory Board for formal process.

All other violations resulting in a fine or other penalty may be contested by a Contractor by requesting a formal hearing before the Advisory Board. The written request for such hearing before the Advisory Board must be submitted to the NRD and must comply with the formalities of Sub Section 5.6.8 entitled "Written Documents".

A formal hearing date will be set within thirty (30) calendar days of NRD's receipt of such request.

- (2) The determination as to whether probable cause exists will be made by a majority vote of the Advisory Board sitting as a Probable Cause Panel.
- (3) The Probable Cause Panel may request additional investigation if the Panel reasonably believes that additional information is necessary to make the probable cause determination.
- (4) If the Panel finds probable cause does exist, the NRD will file a formal complaint against the subject Contractor and set the date for hearing.
- (5) In lieu of a finding of probable cause, the Panel may issue a letter of guidance to the subject Contractor.

5.6.5 Formal Hearing Process

- (1) A formal hearing date will be set within thirty (30) calendar days after the Panel finds probable cause.
- (2) The Chairman of the Advisory Board or the County Attorney's office has the discretion to delay or continue the hearing date for good cause. A request for continuance must be delivered to the NRD in writing at least fourteen (14)

calendar days before the hearing date and it must state the specific reasons for the request.

- (3) All parties must be given ten (10) calendar days notice prior to formal hearing unless otherwise agreed by the parties.
- (4) The notice of hearing must include the following:
 - (a) a statement of the time, place and nature of the hearing;
 - (b) a statement of the legal authority under which the hearing is to be held; and
 - (c) a copy of the complaint.
- (5) The suggested time period for presentations at the hearing is:
 - (a) Ten to Fifteen (10 - 15) minutes for the primary presentation; and
 - (b) Five to Ten (5 - 10) minutes for rebuttal and/or questions of staff.
- (6) The order of presentation should be:
 - (a) Ground water unit supervisor from Lee County Division of Natural Resources;
 - (b) Contractor, or designated representative.
- (7) During the hearing, all parties will have an opportunity to present evidence and argument.
- (8) At the discretion of the Advisory Board, the general public will have an opportunity to present oral testimony or written communications. If this evidence is considered by the Advisory Board, the opposing party will be given the opportunity to cross-examine, challenge or rebut it.
- (9) All testimony must be under oath.
- (10) A Division of Natural Resources ground water unit supervisor will represent the County in the proceedings against the Contractor.
- (11) The standard of proof applicable to these hearings is "clear and convincing evidence." [Florida case law indicates that "clear and convincing evidence" requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be

precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produced in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.]

- (12) Irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs will be admissible, whether or not the evidence would be admissible in civil court. Any part of the evidence may be received in written form.
- (13) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but will not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions.
- (14) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties will be given an opportunity to compare the copy with the original.
- (15) All pleadings, motions or other papers filed in the proceedings must be signed by a party or the party's qualified representative.
- (16) The Well Construction Advisory Board will then direct its decision to the Director of the Natural Resources Division.
- (17) Upon a party's request, the Advisory Board Chairman can issue a subpoena for hearing. Any person subject to a subpoena may, before compliance, request the Board to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonable in scope, or requires the production of irrelevant material.
- (18) At the conclusion of the hearing the Advisory Board will render an oral decision. The decision becomes final upon execution of the final order. However, if the Advisory Board decision includes suspension or revocation of license privileges, this portion of the decision will go into effect at the start of business on the day following the hearing.

5.6.6 FINAL ORDERS

- (1) Within fourteen (14) calendar days after the conclusion of the formal hearing, the NRD or the County Attorney's Office will prepare a recommended final order that reflects the Advisory Board's determination. Any order imposing disciplinary action against a Contractor must contain, at a minimum, the following:

- (a) A clear statement of the violation charged and the factual basis for the charge;
 - (b) Evidence that the Contractor was given notice of the charges and an opportunity to appear and present evidence and testimony regarding the charges;
 - (c) Findings of fact based exclusively on evidence of record and matters officially recognized by the Advisory Board;
 - (d) Conclusions of law demonstrating that the facts alleged constitute a violation of local regulations;
 - (e) A statement of the penalty imposed against the Contractor;
 - (f) A clear statement concerning the right to appeal the Advisory Board's decision or challenge the recommendation to the Lee County Board of County Commissioners;
- (2) The NRD will provide each Advisory Board member present at the hearing and the subject Contractor with a copy of the recommended order. The Board will consider the recommended order at its next regular meeting or any special meeting, held for such purpose.
 - (3) The Advisory Board may adopt the recommended order as the final order or make any amendments it deems necessary.
 - (4) All Final Orders must be in writing and signed by the chairman of the Advisory Board within thirty (30) calendar days after the formal hearing is concluded.
 - (5) A copy of any order rendered by the Advisory Board will be provided to the parties, including any complaint, by certified U. S. Mail.
 - (6) The Advisory Board's order is final upon execution by the Chairman.

5.6.7 APPEALS

- (1) Contractor Appeals from any adverse decisions by the Advisory Board, pursuant to the provisions of this Ordinance, shall be made in writing to the Advisory Board and to the Lee County Board of County Commissioners, within ten (10) calendar days after receipt of the final order. In the event the decision of the Advisory Board is contrary to that of the NRD, the Director of the NRD may, within ten (10) days appeal the decision to the Lee County Board of County Commissioners. All appeals shall be filed with the Director

of the NRD.

- (2) Each appeal must be made by filing a written Notice of Appeal within ten (10) calendar days from the date of final order of the Advisory Board and by paying a forty dollar (\$40.00) filing fee (made payable to the Lee County Board of County Commissioners). The written Notice of Appeal shall be filed with the Director of the NRD and shall contain appropriate reference to the decision or order and shall state specifically the grounds of appeal.
- (3) The Lee County Board of County Commissioners shall hear all appeals from the decision of the Advisory Board. The Lee County Board of County Commissioners shall review the decision of the Advisory Board, de novo, based on the record, and to make its own decision at a regularly scheduled public meeting of the Lee County Board of County Commissioners as to all matters, including, but not limited to, the facts, law, decision and sanctions, and shall have no power to make special exceptions to the Advisory Board or to interpret disputed language in the Well Code Ordinance, so long as it is in harmony with the general purpose and intent of the code.
- (4) An appeal shall stay all proceedings in connection with the decision unless the Director of NRD certifies that a stay would cause immediate hazard to life, property or water resources.
- (5) The appeal shall be decided by the Lee County Board of County Commissioners within thirty (30) calendar days after filing of the Notice of Appeal.
- (6) Appeals from decisions of the Lee County Board of County Commissioners are by asking for a review in the County Court in and for the Twentieth Judicial Circuit located at the Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida. All notices shall be filed in accordance with Florida Rules of Appellate Procedures 9.110. Appellant (Contractor) must file the notice for review with Clerk of Court within thirty (30) days after rendition of the Lee County Board of County Commissioners' order to be reviewed.

5.6.8 Written Documents: Petitions, Pleadings, Request for Hearing and Notice of Appeal

- (1) The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition, pleading or request for hearing or appeal shall be legible and on 8 ½ x 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

- (2) All written documents requesting any of the above such action shall contain:
- (a) The name and address of each person affected, if known;
 - (b) The name, address, and telephone number of the Contractor_or petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's or Contractor's substantial interests will be affected by the Advisory Board's determination;
 - (c) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (d) A concise statement of the ultimate facts alleged, including the specific facts the petitioner or Contractor contends warrant reversal or modification of the NRD's or Advisory Board's proposed action;
 - (e) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the NRD, Advisory Board or Lee County Board of County Commissioners to take with respect to any proposed action;
 - (f) A petition shall not be heard or considered if it is not in substantial compliance with this section or it has been untimely filed;
 - (g) The NRD shall promptly give written notice to all parties of any action or the failure to take action on a petition.

SECTION SIX: PERMITS.

6.1 REQUIREMENTS FOR PERMIT.

A valid permit issued by Lee County NRD is required to drill, construct, repair, rehabilitate, plug, enlarge or deepen any well, geotechnical boring, or elevator shaft. Prior to issuance of a permit to drill, construct, repair, rehabilitate, plug, enlarge or deepen any well, geotechnical boring, or elevator shaft, an application must be completed, signed by the Contractor, and submitted with the required supporting documentation to the NRD. Applications for Fire Well permits shall be attached with an engineering analysis

documenting water supply need for fire fighting for the structures or facilities on the property. Dewatering wells not exceeding twenty (20) feet in depth are exempt from the provisions of this Ordinance. Cast-in-place foundation holes installed by Florida Department of Transportation, Florida Power and Light or other utility companies are also exempt from the provisions of this Ordinance.

The Contractor's Lee County drilling license shall be current and in good standing at the time of permit application, and at the commencement of construction of permitted activity. A permit shall not be issued to a Contractor who is not capable of supervising the work being performed on site. The NRD will strive to review the application within twenty-four (24) hours of application receipt (except weekends and holidays) to determine completeness. When State, SFWMD, or other laws, rules or regulations require permits or variances, the applicant for a well construction permit shall attach copies of said permits or variances to the application. Upon determination of the completeness of the permit application, the NRD will strive to issue the permit to the applicant within twenty-four (24) hours (except weekends and holidays) from the time of receipt of a complete permit application. In the event a permit is denied, the reason(s) shall be noted on the application form and the applicant shall be notified according to SECTION SIX.

All permits shall be located in the jobsite permit box or prominently and securely displayed on the premises and, when possible, visible from the street. It is the Contractor's responsibility to insure that the permit is securely fastened to the location where it is displayed. Permits that were posted, but are missing at the time when the inspection is performed shall be considered not posted. The Contractor shall add the required subsurface and other construction information to the permit at the time of well completion.

6.2 CONDITIONS FOR ISSUANCE OF PERMITS.

(1) **Unauthorized Wells:** Wells drilled without all required permits shall be plugged by the Contractor at the contractor's expense, or by the property owner at the property owner's expense (if the responsible Contractor cannot be identified), within 7 days of notification by NRD. An after-the-fact permit may be issued if the well drilled without a permit appeared to meet the standards of this ordinance under existing well inspection procedures.

(2) **Other Approvals:** The Contractor shall be responsible for obtaining all other applicable local, state, and federal permits or variances prior to commencement of construction of proposed work for which the Lee County well construction permit had been issued.

(3) **Construction Scheduling:** All drilling inspection scheduling, anticipated interruptions, or cancellations shall be in accordance with SECTION EIGHT, DRILLING INSPECTORS AND INSPECTIONS. Except in case of an emergency well construction, proposed work shall not commence on any site prior to scheduling an inspection in accordance with the inspection scheduling requirements.

(4) **Aquifer Contamination:** Construction of wells shall not result in uncontrolled movement of water from one aquifer or water bearing zone of differing water quality to another, contamination of groundwater or surface water resources, or other adverse impacts.

(5) **Emergency Authorization:** If an existing well has failed and the health, safety or general welfare of the community is involved, the Director or his/her designee or the Director of Lee County Public Health Department, Environmental Engineering Division may

issue emergency authorization for the work to be started before permits are obtained. However, permit applications shall be submitted prior to completion of construction or by 7:30 a.m. of the following workday.

(6) Construction Completion: The Contractor shall not abandon the work site without notifying the inspector. The Contractor may not be eligible to apply for new permits until satisfactory completion of proposed work for which permits had been issued and construction had been commenced.

(7) Special Conditions: In order to protect groundwater resources, the NRD may include specific conditions in the well construction permit as required to address specific well construction or drilling performance requirements.

(8) Property Access: The property owner or the applicant, by obtaining of a well construction permit, specifically agrees to allow authorized NRD staff with proper identification to access the premises at reasonable times where the permitted activity is located or conducted for the purpose of ascertaining compliance with the permit issued or requirements of this Ordinance.

(9) Minimum Lot Size: A permit for installation of a domestic water supply well may be issued to lots that meet the minimum lot area, dimensions, and distances criteria stated in the Section 381.0065(4)(a), Florida Statute or as that statute may be amended, replaced or renumbered.

(10) Pollution Prevention: The Contractor shall take all necessary measures to prevent environmental pollution due to well construction.

6.3 PERMIT FEE.

A fee shall be assessed for each permit as set forth in Lee County Administrative

Code AC-3-10 External Fees and Charges Manual Appendix C (also Appendix C of this Code), or as that Administrative Code may be amended, replaced, or renumbered. Such fees are hereby declared to be necessary for the purpose of processing permits, making necessary inspections and for the administration and enforcement of this Ordinance.

6.4 REINSPECTION FEE.

A fee shall be assessed prior to each reinspection made by the NRD. The reinspection fees shall be those set forth in Lee County Administrative Code AC-3-10 External Fees and Charges Manual (Appendix C), or as that Administrative Code may be amended, replaced, or renumbered. These fees can be waived at the discretion of the NRD provided such waivers can be justified.

6.5 SUBMISSION OF SUBSURFACE DATA.

Upon completion of installation of a well, the Contractor shall ensure that the well construction information summarized as follows :

- (1) Well casing diameter and depth;
- (2) Total well depth;
- (3) Quantity and type of annular space grout utilized; and
- (4) Well yield during well development;

is provided both on the permit posted at the site and on the water container bottle left at the site for NRD. South Florida Water Management District well completion reports shall be submitted within thirty (30) days to the NRD after completion of well or geotechnical boring construction. Well construction information and sediment free clean water sample collected from the well water producing zone in an NRD supplied laboratory container shall be made available to the NRD staff pursuant to Appendix A, Procedures Manual. It will be

stated on the permit whether relevant additional data, samples or tests are to be required for the specific area involved. Such information shall be submitted in accordance with the requirements of SECTION SEVEN of this Ordinance, and shall be included with the completed log as required in SECTION SEVEN of this Ordinance. The Contractor shall coordinate the submission of various samples and additional information with NRD staff as necessary. The above shall not preempt any testing and sampling as required by Lee County Health Department, Environmental Engineering Division or the SFWMD.

6.6 PERMIT TRANSFER OR EXCHANGE.

Permits issued are neither transferable nor exchangeable. Permitted projects that have not been scheduled for inspections may be eligible for refund of a partial permit application fee.

6.7 AUTHORITY GRANTED BY THE PERMIT.

A permit shall authorize an owner, or a Contractor on behalf of an owner, to drill a well, geotechnical boring, or elevator shaft, providing the following conditions are satisfied:

- (1) A licensed water well contractor constructs the well, except for a homeowner constructing or plugging his/her own well using the standards specified in this Ordinance.
- (2) The well is constructed in accordance with the information furnished on the permit application, including exact location of well on property.
- (3) Proper notification is given to the NRD prior to construction.
- (4) All persons drilling a well shall comply with the applicable provisions of this Ordinance and Chapter 40E-3, F.A.C.

6.8 VALIDITY.

An NRD permit is valid for six (6) months from the date of issuance. Permits shall be void after six (6) months from the date of issuance, unless the time limit has been extended by the NRD after a written application by the Contractor. A fee shall be assessed for each permit time extension request as set forth in Lee County Administrative Code AC-3-10 External Fees and Charges Manual, Appendix C (also Appendix C of this Code), or as that Administrative Code may be amended, replaced, or renumbered. Supplemental information may be required by NRD prior to approval of a request for permit time extension. The NRD shall make a determination on applicant's written time extension request. No more than two (2) time extensions totaling 6 months shall be approved for a given permit. Permits that have been closed by NRD shall not be re-opened.

6.9 REWORKED WELLS.

If an old well needs to be reconstructed to a greater depth or if its diameter is changed, a new permit must be obtained from the NRD specifying the work to be performed.

6.10 CAUSE FOR DENIAL, SUSPENSION OR REVOCATION.

An application for permit to drill may be denied or a permit that has been issued can be suspended or revoked if the well is subjected to or may cause any one or more of the following conditions:

- (1) Non-compliance with a provision of this Ordinance or any rule or regulation promulgated by the Board of County Commissioners pursuant thereto.
- (2) Intrusion of pollutants into the ground water supply of Lee County.
- (3) Uncontrolled intermixing of ground water between aquifers or intra-aquifers.

(4) Extreme depletion of the ground water supply of Lee County so as to cause a threat to the availability of future water resources, or degradation of subsurface water strata.

(5) Endangering the public health, safety and welfare of the citizens within Lee County.

(6) Material misstatement or misrepresentation in the application.

6.11 NOTICE OF DENIAL.

The NRD shall issue a written Notice of Denial of a permit application whenever it is found that an applicant fails to meet the requirements for issuance of a permit as herein provided. Such notice shall:

(1) State the reasons for the denial, and may state any remedial action which, if taken, will affect compliance with this Ordinance and permit approval of the application.

(2) Be served upon the applicant or his/her agency by Certified Mail, return receipt requested or Registered United States Mail.

(3) Any person receiving a Notice of Denial may obtain a hearing before the Well Construction Advisory Board by filing a written petition with the Advisory Board, if filed within ten (10) working days of the receipt of said notice.

6.12 SUSPENSION AND REVOCATION OF PERMIT.

A permit may be suspended by the NRD by written notice thereof if well construction is in violation of the provisions of this Ordinance or other applicable local, State or Federal rules or regulations. Upon receipt of said written notice, the Contractor and/or landowner shall, at the discretion of the NRD, rectify the violation or cease construction. Any

permittee receiving a notice of suspension may obtain a hearing before the Well Construction Advisory Board if the request to obtain such hearing is made in writing ten (10) calendar days of the receipt of said notice. Following such hearing, the Advisory Board may recommend extending such suspension or may recommend modifying or revoking the permit. In the absence of a request for hearing, the Lee County Board of County Commissioners may revoke the permit if notice was properly received, at the end of the ten (10) day period without such a hearing. All notices of suspensions or revocations or violations of permit conditions will be forwarded to the SFWMD.

6.13 IDENTIFICATION OF DRILLING RIGS.

All drill rigs used by the Contractor shall prominently display the name of the licensee or the name of his/her employer and his/her County and State license numbers in letters at least two (2) inches high on each side of the equipment.

SECTION SEVEN: TEST WELL REQUIREMENTS.

7.1 TEST WELLS.

A well construction permit application together with a Test Well Form shall be submitted for each test well to be constructed. Test wells are subject to the following conditions:

(1) Exploratory drilling under one permit shall be conducted on a single parcel of property for a single owner.

(2) Each and every test well shall be constructed, grouted, or plugged in accordance with this Ordinance and other State requirements.

(3) In the exploration for water, a test well that is found to produce the desired

amount of water shall be converted to a production or observation well. To convert a test well to a production well or an observation well, the Contractor shall submit a permit application to NRD and receive permit approval and submit a Water Use Permit application to SFWMD, as required, and receive permit approval.

7.2 TEST WELL APPLICATIONS.

(1) Application must have a Test Well Form attached stating the purpose of test wells and that the construction of the test well complies with this Ordinance.

(2) A test well that is not converted to a production well shall be plugged in compliance with this Ordinance.

(3) A test well that is converted to a production well shall have the application amended by the Contractor. If a Water Use Permit (WUP) is required from SFWMD, an application for a WUP shall be submitted to SFWMD and the WUP application number shall be provided to NRD for the well construction permit application to be deemed sufficient. The WUP must be approved before the well can be used. The SFWMD may hold the Contractor, as well as the owner, liable if the well is used before amendment is approved.

7.3 TEST WELL REPORTS.

Unless a time extension had been granted by NRD, reports of test well information, such as well logs, test pumpage, water quality, capacity, depths and sizes, shall be submitted, within 30-days of completion of well construction, to the NRD to be evaluated.

Test well reports shall include all data obtained as described hereinafter.

7.4 TESTING PROCEDURE.

(1) As noted above, complete logs shall be kept and filed with the NRD.

(2) Descriptions of conditions shall be adequate to describe each separate layer of material encountered and shall include, but shall not limit to, size of particles, consolidation (blow count if applicable), type of material encountered (sand, limestone, shell, clay, etc.), color, relative hardness, relative permeability, where any and all water was encountered, and the depths below ground surface at which strata was encountered. Core samples or cuttings may be required for further examination.

(3) Proposed well locations shall be indicated in permit applications. Final well locations shall be shown on a drawing or plot plan showing distances to property lines, corners or other surface features of a permanent nature; setbacks from septic systems, a north arrow; and this information will be maintained by the NRD.

SECTION EIGHT: DRILLING INSPECTORS AND INSPECTIONS.

8.1 INSPECTORS.

Inspectors will have a valid Lee County Water Well Contractor license and be fully knowledgeable in the provisions of this Ordinance and with construction practices relating to drilling, repairing, sealing and plugging of wells borings, and elevator shafts.

8.2 INSPECTIONS.

8.2.1 Coordination:

(1) The NRD or appropriate state agency will conduct inspection of well construction, alterations, and plugging. The NRD representative or well inspector may assist and verify, but shall not be responsible for designating the location of a well to be constructed.

(2) The Contractors shall advise the NRD of the date(s) and time(s) when

construction will begin, when various portions of the work will be completed, when work is cancelled, and/or when work will be interrupted.

(3) All private water system wells must be inspected and approved by the NRD prior to the issuance of a Certificate of Occupancy by the Lee County Building Department. Should notification of specific stages of construction be necessary, it will be stipulated on the approved permit application.

(4) Existing Domestic wells shall be inspected by an NRD Well Inspector for compliance with the requirements of this Ordinance. An existing well permit approval will not be issued for existing domestic wells that do not comply with the requirements of this Ordinance and the Lee County Health Department setback requirements for domestic supply wells.

(5) All drilling inspection scheduling, anticipated interruptions and cancellation shall be done in accordance with Appendix A, Procedures Manual. Drilling or well construction after regular work hours is addressed in APPENDIX A, Procedures Manual. After-hour inspection fee may be assessed for all inspections performed outside regular work hours (7:30 a.m. to 4:00 p.m.) of the county well inspectors. Emergency well construction inspection is exempt from after-hour inspection fee. All scheduled inspections that are not cancelled according to Appendix A, Procedures Manual are subjected to a fine (Failure to schedule or cancel an activity). Excessive cancellations as described in APPENDIX B, Disciplinary Guidelines, shall result in fines. The Contractor shall also be responsible for not scheduling a drilling activity that has been already completed and inspected.

8.2.2 Public Water Supply and 64E-8 Wells - The NRD must be notified by the

Contractor at least twenty-four (24) hours prior to construction so that an inspector can be present. If proper notification is not given, the well construction will be halted or postponed for at least twenty-four (24) hours.

8.2.3 Unforeseen Conditions - Should, during construction, repair, replacement, abandonment, or plugging of a well, a condition be discovered which was unforeseen prior to the beginning of work, and said condition be unique and indicate that special construction techniques are desirable, the condition shall be reported to the NRD together with all related data, and if directed, all work applicable to subject well shall be discontinued until the above data have been reviewed and appropriate directions are given within 24 hours.

8.2.4 Non-Compliance - If during construction, repair, abandonment, or plugging of a well, the authorized representative or inspector finds the work is not being done in accordance with rules, regulations, and standards of this Ordinance, or adopted by a regulatory agency pursuant to Chapter 373, F.S., the NRD shall give the owner and water well contractor verbal or written notice stating which rules, regulations or standards indicate that the operation being performed is not in compliance and may order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Failure to comply with imposed penalties, or to correct a violation within seven (7) calendar days, or to pay a fine within thirty (30) calendar days, or to act in accordance with the order after receipt of a verbal or written notice shall be grounds for revocations of the permit or suspension of well construction privileges or permitting privileges.

8.2.5 Inspections of Work on Barrier Islands – Due to limited and sensitive nature of ground water resources on barrier islands and the logistical complications for the NRD

staff when accessing these islands by boat for inspection, NRD may attach special conditions to well construction permits on barrier islands.

8.2.6 Reinspections - A reinspection fee shall be assessed to the Contractor for each re-inspection site visit required.

SECTION NINE: CONSTRUCTION OF WELLS, BORINGS AND SHAFT HOLES.

9.1 SCOPE.

The following minimum standards shall apply to construction, repair and abandonment of water wells in Lee County. Staff annotated opinions and policies may be prepared periodically by the NRD and included as part of this Ordinance in Appendix A, Procedures Manual. The standards, opinions, and policies outlined herein shall not be construed to be any less restrictive than Chapter 40E-3, F.A.C., et seq., (Rules and Regulations Governing Water Wells in South Florida) of the Florida Administrative Code. Only Lee County licensed drilling contractors with a valid contractor license and documentation are authorized to drill, construct, repair, rehabilitate, plug, enlarge, or deepen wells, borings or elevator shafts in Lee County.

9.2 MATERIALS.

Except as provided otherwise herein, all materials and standards used in construction, repair and abandonment of wells shall conform to the minimum requirements of Chapter 40E-3, F.A.C., or other applicable state standards adopted by reference and incorporated herein. In construction and/or repair of public potable water supply wells, valves shall conform to the applicable requirements of the AWWA Standards of the C-500 series and fittings downstream of the well casing shall conform to the applicable

requirements of AWWA C-110, unless otherwise approved. All material, equipment or trained personnel required for construction of the well in accordance with the applicable requirements this Ordinance or Chapter 40E-3, F.A.C., shall be on site prior to commencement of well drilling activities. The inspector may order suspension of drilling activities if the required material, equipment or trained personnel are not on site to perform the proposed work.

9.3 CONSTRUCTION METHODS AND PROCEDURES.

9.3.1 General - No metal casing shall be driven below the first regional semi-confining bed (green clay layer) into an artesian aquifer in Lee County. Metal casing can be used to construct deep wells, but drilling methods and procedures shall be the same as those used for thermoplastic (PVC) casing wells.

9.3.2 Ground Water Wells

- (1) All casing driven into place shall have an approved drive shoe on the bottom.
- (2) All well casings shall meet or exceed State specifications.
- (3) All wells shall be constructed so that only one water producing zone is utilized. If the NRD staff has determined that well construction has resulted in uncontrolled movement of groundwater causing aquifer contamination, the Contractor shall be required to remove both the casing and grout, and to reset a new casing followed by grouting.
- (4) A minimum of 2-inch annular space shall be provided between the casing and the borehole, or between two casings, if a liner pipe is present.
- (5) Wells completed in the Mid-Hawthorn aquifer or in shallower aquifers and constructed with a rubber formation packer, also known as rubber boot at the base of the casing shall be seated into a smaller diameter hole drilled into the consolidated portion of

the water-bearing formation and properly grouted above the casing seal (boot) from bottom to the land surface using approved materials and methods as defined in SECTION THREE Grouting Material and Grouting of Wells.

(6) Wells completed in aquifers deeper than the Mid-Hawthorn aquifer shall be pressure grouted with tremie pipe inside the casing or through casing without a grout pipe in accordance with the current American Water Works Association, Inc., Standard for Deep Wells and using approved materials and methods as defined in SECTION THREE Grouting Material and Grouting of Wells.

(7) All wells shall have an approved sanitary seal or other protective device installed to prevent contamination of the well after completion of the well or whenever there is a temporary interruption of work during construction.

(8) Wells shall be grouted from bottom of the annular space to the land surface by pumping grout through the casing with or without a tremie pipe, or through a tremie pipe outside the casing only after the annular space is flushed clean of debris. Wells grouted using a volume of grout less than eighty (80) percent of annular space volume, if approved by NRD staff, may be subjected to reinspections. The Contractor accepts responsibility for repair or replacement of such a well, if NRD determines repair or replacement of the well is necessary. If a loss circulation zone prevents a proper grouting job, the annulus shall be bridged above the loss circulation zone with an approved material, using a tremie pipe, and grouted from the top of the bridge to the land surface. The bottom of tremie pipe shall be within one (1) foot of the casing seal with exit notches or slits strictly within three (3) feet from the seal allowing grouting to be discharged only within three (3) feet from the seal. The grout slurry shall be pumped with a rig mud pump, air diaphragm pump, or any other

positive displacement pump. Use of other types of pumps will be approved by NRD staff provided that the Contractor demonstrates that the pump can be used for the intended purpose. Grouting under gravity pressure (pouring) shall not be allowed.

(9) If the annular space of a well under construction collapses or loses stability prior to successful installation of casing, the Contractor shall remove the well casing, redrill and stabilize the borehole, re-install the well casing and tremie pipe before grouting the annular space. Upon reviewing site specific conditions, the NRD inspection staff may authorize deviations from this requirement.

(10) If a borehole collapses prior to successful emplacement of grout, the Contractor shall redrill and stabilize the borehole, reinstall the tremie pipe then grout the borehole. Upon reviewing site specific conditions, only the NRD inspection staff may authorize deviations from this requirement.

(11) Unless otherwise permitted due to local topography, all wells shall be left a minimum of twelve (12) inches above finished grade and if practical, 12 inches above the 100-year flood elevation so as to prevent surface water from entering the well head. After the well is completed and construction has been approved, the minimum height of the well head above finished grade is to be maintained after the pump has been installed and connected to the water treatment system or the building.

(12) Wells, which flow at the ground surface, shall have a satisfactory valve so that the flow can be readily and completely stopped.

(13) All water wells constructed for the purpose of supplying public drinking water shall be subject to the requirements of the State of Florida Department of Environmental Protection and Lee County Health Department, Environmental Engineering Division,

specifically with regard to site approval prior to construction and the flushing of disinfectant. The Contractor shall be responsible for the necessary coordination to ensure the above compliance.

(14) All private domestic water wells shall have at least thirty (30) feet of casing unless a special exemption or variance is granted by the NRD.

(15) All new wells within the boundaries of Lehigh Acres established in Policy 54.1.9 of the Lee Plan, or as that policy may be amended, renumbered, or replaced and as depicted in the map attached as Exhibit A and incorporated herein shall be constructed to accommodate submersible pumps unless the well is thirty (30) feet or less in depth.

(16) New irrigation wells within the boundaries of the Bonita Springs area as established in Policy 1.7.10 of the Lee Plan, or as that policy may be amended, renumbered, or replaced and as depicted in the map attached as Exhibit A and incorporated herein may not utilize the Lower Tamiami aquifer below the first regional confining layer.

(17) In the vicinity of San Carlos Park, an intra-aquifer confining unit exists in the Water Table aquifer, typically occurring at approximately thirty (30) to thirty five (35) below the land surface. This confining unit separates the shallow portion of the Water Table aquifer from the deeper portion of the Water Table aquifer. A distinct difference of water quality exists above and beneath the intra-aquifer confining unit. In order to prevent contamination of water quality in the deeper portion of the Water Table aquifer, all wells installed within the boundaries of the San Carlos Park area as depicted in the map attached as Exhibit A and incorporated herein, shall be constructed in a manner to prevent intermixing of waters of different quality.

(18) In Lehigh Acres, an intra-aquifer confining unit exists in the Sandstone aquifer. This confining unit effectively separates the shallow portion of the Sandstone aquifer from the deeper portion of the Sandstone aquifer. In order to prevent contamination of water quality in the deeper portion of the Sandstone aquifer, all wells installed within the boundaries of Lehigh Acres area as depicted in the map attached as Exhibit A and incorporated herein, shall be constructed in a manner to prevent intermixing of waters of different quality.

(19) Following well construction, each well shall be thoroughly developed using the method of well development appropriate for the constructed well and the site conditions to ensure complete removal of all sand, drilling mud, drill cuttings and other debris from the well. On the day of construction, at the end of well development, sediment free clean water sample shall be collected from the well water producing zone in the container provided by NRD.

(20) Lee County recommends that all new domestic water supply wells be disinfected following their construction, and prior to being utilized for domestic water supply service.

(21) Wells installed by property owners who are not Lee County licensed drilling contractors shall not exceed a depth of thirty (30) feet below the land surface or the top of the regional confining unit, whichever occurs first.

9.3.3 Test Wells, Borings, and Shaft Holes

(1) Water test wells whose purpose is obtaining exploratory or observational data shall conform to the specifications for regular wells within twelve (12) months of construction. Such wells may be converted to permanent production or observation wells

upon approval of the NRD and the SFWMD, when applicable. Water test wells not converted to permanent wells shall be plugged as specified by this Ordinance and other State requirements.

(2) Test holes or geotechnical borings for the purpose of obtaining data for engineering studies, seismographic, geophysical or geological exploration or prospecting for minerals, but not for the purpose of either producing or disposing of water shall be plugged from bottom of the borehole to the land surface with an approved grouting material immediately upon completion of tests or borings. The Contractor shall be responsible for the proper plugging of such test holes.

(3) Shaft holes for hydraulic lifts shall be double-cased with a minimum of two (2) inches of grouting material in annular spaces outside and between casing strings. The shaft hole shall be grouted a minimum of five (5) feet below the bottom of the inner casing.

(4) Boreholes not completed as wells, test holes or elevator shafts shall be plugged from bottom of the borehole to the land surface in a manner specified in this Ordinance. The Contractor shall be responsible for the proper plugging of boreholes before leaving the site.

9.3.4 Abandoned Wells

When a well is determined to be abandoned, the Director or his/her designee may, by his/her authority for protection of water resources, require that the well be rehabilitated or plugged. The Director or his/her designee may use temporary measures, immediately, to control a flowing or a non-flowing well; otherwise, the following procedure shall take place before the well is rehabilitated or plugged:

(1) The Director or his/her designee shall notify the property owner that a well on

his/her property has been identified as abandoned. If no property owner can be identified, the Director or his/her designee shall cause to be published in a paper of general circulation for Lee County, notice of the NRD's intent to plug the abandoned artesian or a non-flowing well. Notice shall be once each week for four (4) consecutive weeks.

(2) Once so notified, the property owner shall submit to the NRD within ten (10) calendar days the geophysical logs or a well completion report showing depth of well and casing.

(3) If the geophysical logs or a well completion report show the well is open to more than one aquifer or the casing is corroded, the well shall be ordered to be rehabilitated or plugged within ninety (90) days of notification by NRD.

(4) If geophysical logs or a well completion report are not available or can not be provided to NRD, the owner shall have ninety (90) days in which to have the depth of well and casing determined by the appropriate geophysical logs.

(5) If the property owner has been ordered to plug or rehabilitate a well on his/her property but does not carry out the work as ordered within ninety (90) days, duly authorized representatives of the NRD may at reasonable times enter upon and shall be given access to the premises by the property owner for the purpose of carrying out the work so ordered. The property owner shall then become liable for the cost of the ordered work. If the owner fails to pay for the work performed by the County, a lien may be placed on the owner's property to satisfy such costs. If the abandoned well was for residential domestic or irrigation use and is being replaced, the homeowner may plug the abandoned well provided that the well does not exceed thirty (30) feet in depth and the homeowner shall obtain a well abandonment permit from NRD prior to plugging a the well. The

homeowner must abandon the well in compliance with SECTION 9.3.5.

9.3.5 Plugging of Existing Wells

9.3.5.1 General - A well may be plugged provided:

(1) It is filled from bottom to the land surface with an appropriate grouting material as defined in SECTION pumped into the well through appropriate sized tubing inserted in the well, and work done in accordance with the requirements of the NRD and the SFWMD.

(2) An attempt is made to determine the depth of the well.

(3) Other materials or methods for plugging wells may be utilized only if approved by the NRD and the SFWMD.

9.3.5.2 Permit

(1) Prior to plugging any well, a permit must be obtained from the NRD.

(2) The Contractor shall be familiar and shall comply with applicable provisions of Chapter 373, Florida Statutes, Regulation of Wells, Part III.

(3) Unless the Contractor has obtained a permit for other work, as specified elsewhere herein, and said permit includes plugging of well(s) together with approved plugging specifications and procedures, he/she shall submit evidence of approval from the Florida Department of Environmental Protection or any other required State agency approval, with the methods to be used in plugging together with the application to plug any well which extends beyond the water table aquifer.

(4) The Contractor shall notify the NRD at least twenty-four (24) hours prior to the start of the plugging operation so that a NRD inspector may be present during plugging operation.

(5) After completion of plugging a well, the required completion report shall be promptly filed with the NRD. This report shall include the depth of the well, chloride content (milligrams per liter or parts per million), static water level before plugging, temperature of the water, and the quantity of backfill material used if applicable.

9.3.6 Plugging of Replacement Wells

The Contractor shall ensure that the existing well is plugged from bottom to the land surface with approved grouting material and in accordance with the requirements of this Ordinance within two (2) weeks following completion of installation of the replacement well.

The NRD must be notified by the Contractor at least twenty-four (24) hours prior to plugging the replacement well, so that an inspector can be present during plugging operation. Upon reviewing project specific circumstances, the NRD inspection staff may authorize deviations from this requirement.

9.3.7 Repair or Replacement of Wells - All work involving repair or replacement of wells shall be performed by a licensed Contractor. Wells found to have defective casings shall be repaired or considered as an abandoned well. The defective casings shall not be pulled. Should special repair or replacement techniques seem desirable, special application by the Contractor, including all technical data regarding existing conditions and the Contractor's proposed methods of effecting repair, or replacement, shall be submitted to the NRD for review as necessary. The Contractor shall adhere precisely to the special application as approved, amended or disapproved.

SECTION TEN: LICENSING.

10.1 CONTRACTOR LICENSURE REQUIREMENTS.

Water well and specialty contractors as defined under this Ordinance shall obtain a County license from the NRD. All new or presently unlicensed water well contractors must show proof of a valid State of Florida water well contractor license, and provide the following:

- (1) a copy of a valid State of Florida driver license (or State issued picture identification),
- (2) proof of a valid Lee County occupational license,
- (3) evidence of workman's compensatory and liability insurance,
- (4) references for at least two (2) years drilling experience, demonstrate competency during a field test, and
- (5) written examination reviewed by NRD with a minimum of 70% correct answers.

10.2 LICENSE RENEWAL.

County licenses shall be renewed every two (2) years on the licensee's birthday. Application for license renewal shall be submitted to NRD within thirty (30) days prior to expiration of the license, to insure sufficient time for application review and processing. Failure to renew by the due date will result in an additional penalty or late fee. The grace period for license renewal is six (6) months following license expiration date. All applicants will be required to take the written licensure examination to re-instate any license that has not been renewed for a period greater than one (1) year following license expiration date. Water well contractor license in Lee County entitles the holder to construct all classes of wells addressed in this Ordinance. Among other documentation, application for license

renewal shall include proof of continued education classroom hours accumulated during the license renewal period.

Contractors who repeatedly violate the provisions of this Ordinance may be denied the applications for license renewal. In a three (3) year period, Contractors who accumulate fines totaling more than \$3,000 (three thousand dollars) for combined administrative and construction violations (except for violations for the failure to cancel or schedule an activity), or whose license(s) had been suspended or revoked for a period of 12 months or more, shall have their license(s) revoked, and not be eligible for future applications for a license or license renewal.

10.3 SPECIALTY LICENSE.

In the absence of a State of Florida water well contractor license, Lee County specialty drilling licenses shall be required for construction, repair, or abandonment of geotechnical borings or elevator shafts. A monitoring well specialty drilling license authorizes the Contractor to construct, repair, or abandonment of monitoring wells and geotechnical borings. A geotechnical boring specialty drilling license authorizes the Contractor to construct, repair, or abandonment of geotechnical borings. An elevator shaft specialty drilling license authorizes the Contractor to construct, repair, or abandon elevator shafts. Requirements for renewal of these licenses are the same as for a water well contractor license.

10.3.1 Monitoring Wells - to obtain a specialty license to construct monitoring wells in Lee County, the applicant must provide the following:

- (1) evidence of two (2) years monitoring well construction experience,
- (2) proof of a valid State of Florida water well contractor license,

- (3) proof of a valid Lee County occupational license,
- (4) evidence of workman's compensatory and liability insurance, and
- (5) pass a field and written examination with a minimum score of 70% and pay the appropriate licensing and testing fee.

10.3.2 Geotechnical Borings and Elevator Shafts - to obtain a specialty license to drill geotechnical borings and elevator shafts in Lee County, the applicant must provide the following:

- (1) evidence of competency with a minimum of two (2) years of experience in the trade,
- (2) proof of a valid Lee County occupational license,
- (3) evidence of workman's compensatory and liability insurance, and
- (4) pass a field test and pay the appropriate licensing and testing fee.

10.4 LICENSED CONTRACTOR RESPONSIBILITIES.

- (1) The Contractor shall bear full responsibility for compliance with the provisions of this Ordinance, Chapter 40E-3 F.A.C., and other applicable state or federal requirements. The Contractor shall be capable of providing adequate supervision for work being performed on site. Prior to drilling, constructing, repairing, rehabilitating, plugging, enlarging or deepening any well, geotechnical boring, or elevator shaft, the Contractor shall ensure that he or she has a Lee County license appropriate for the work being conducted.
- (2) The Contractor may not be eligible to apply for new permits until satisfactory completion of wells or other activities for which permits had been issued and construction has been commenced.
- (3) A valid State of Florida water well contractor license, a valid Lee County

occupational license, and proof of workman's compensatory and liability insurances are prerequisites for obtaining and maintaining a Lee County water well contractor license or a specialty license.

(4) The Contractor shall be responsible and liable for work being performed or taking actions deemed necessary by NRD to correct conditions that may harm environmental resources as a result of any drilling, constructing, repairing, rehabilitating, plugging, enlarging or deepening any well, geotechnical boring, or elevator shaft.

(5) The Contractor shall be responsible for providing adequately trained personnel and equipments in good working condition to carry out permitted work. Work being performed without on-site supervision by the Contractor may be halted and on-site supervision by the Contractor will be required prior to resuming work.

(6) The Contractor shall be responsible for providing safe work site conditions for his/her employees and NRD staff to perform their duties.

(7) The Contractor shall be responsible for performing work within a reasonable period of time for which a partial or full payment had been received from any person.

(8) The Contractor and his/her staff shall be responsible for cooperating with NRD staff during inspection of wells and other related activities. It is unlawful for any person to knowingly interfere with, threaten with bodily harm, oppose, resist, obstruct, hinder or in any manner from preventing a NRD staff member performing his/her duty, or fail to obey the lawful order of NRD staff member.

SECTION ELEVEN: SUPPLEMENTAL REGULATIONS

11.1 RULES AND REGULATIONS.

All rules, regulations, administrative codes, statutes and laws set by higher authority in control of water resources remain in effect and are supplemented by rules and regulations in this Ordinance.

11.2 LIMITS OF COUNTY LIABILITY.

The issuance of a well construction approval number shall not be interpreted as an assurance by Lee County that any private water system well will continue to meet the minimum standards of this Ordinance or any other County, State or Federal standard. No person shall be entitled to rely upon the issuance of any permit or certificate as proof that Lee County or the State of Florida is assuming any legal responsibility for ensuring that private water wells, once tested, continue to meet any standards whatever for quality, quantity, and potability, including, but not limited to, bacteriological levels, salinity, turbidity, or mineral content.

SECTION TWELVE: PENALTIES.

Any person who shall violate any section of this Ordinance shall be punished in accordance with the Lee County Well Code Contractor's Disciplinary Guidelines (Appendix B). The Lee County Board of County Commissioners may institute in any Court or before any Administrative Board of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this Ordinance or any order or ruling made in connection with its

administration or enforcement by way of mandatory injunction or otherwise, as deemed proper by the Court.

SECTION THIRTEEN: CONFLICTS.

In the event that any provision of this Ordinance is found to be contrary to any other existing Lee County Ordinance, code, rule or regulation covering the same subject matter, this Ordinance shall supersede all other such Ordinances, codes, rules or regulations to the extent that this Ordinance is in conflict therewith.

SECTION FOURTEEN: SEVERABILITY.

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the Powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such Court shall not affect or impair any remaining provisions of this Ordinance.

It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION FIFTEEN: INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code and that sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions and regardless of whether such inclusion in the Code is

accomplished. Sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the County Manager or his or her designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

SECTION SIXTEEN: SCRIVENER’S ERRORS.

The Board of County Commissioners intends that this Ordinance can be renumbered or relettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his/her designee, without the need for a public hearing.

SECTION SEVENTEEN: EFFECTIVE DATE.

This Ordinance shall become effective upon receipt of official notice from the Florida Secretary of State that the Ordinance has been duly filed with that office.

THE FOREGOING Ordinance was offered by Commissioner Judah, who moved its adoption. The motion was seconded by Commissioner St. Cerny and being put to a vote, the vote was as follows:

BOB JANES	<u>Absent</u>
DOUGLAS R. ST. CERNY	<u>Aye</u>
RAY JUDAH	<u>Aye</u>
TAMMARA HALL	<u>Aye</u>
JOHN ALBION	<u>Aye</u>

DULY PASSED AND ADOPTED this June 13th day of 2006.

ATTEST: CHARLIE GREEN
CLERK OF THE COURT

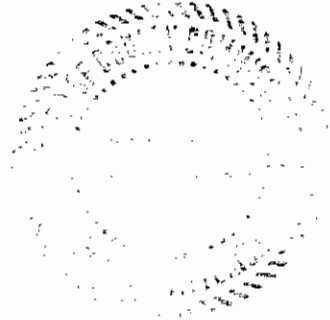
By: Michele S Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Chairwoman

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney



APPENDIX A
LEE COUNTY WELL CODE
PROCEDURES MANUAL
For Issuance of
PERMITS
For
WELL CONSTRUCTION AND ABANDONMENT

INTRODUCTION

The purpose of this manual is to provide, periodically, more details to selected methods, materials, procedures, and policies that are described, in general terms, in the Lee County Well Code. The manual will also include updates of Federal, State, and other County regulations affecting the Well Code.

The manual is divided into three sections:

- I Permits (application requirements, supporting documentation)
- II Well Construction (methods, casing, grout, annulus)
- III Administration (code interpretations, license, penalties)

SECTION I PERMITS

A property owner, owner's agent, or a licensed water well, elevator shaft, monitor well or geotechnical boring contractor may make applications for permits, but all applications must include the signature of the appropriate Contractor. For convenience the Natural Resources Division (NRD) allows well permit applications to be mailed or faxed to our office location noted below.

**Lee County NRD
Well Permitting – 1st Floor
1500 Monroe Street
Ft. Myers, FL 33901**

FAX 239-479-8535

Permit and other fees are handled by the Cashier's Office located at the 1st floor of the Public Works and Community Service building. The Cashier's Office can be reached at the tel. (239) 479 8539 or by facsimile (239) 479 8186.

The County promotes electronic communication between staff and Contractors. In order to improve the efficiency of the work place, the staff may elect to electronically transmit permits and other correspondence to Contractors instead of facsimile or US mail.

Permit Processing Time: Permit applications are accepted at the permit counter from 7:30 a.m. to 4:00 p.m. All permit applications and supporting documents will be reviewed for completeness and a sufficiency determination will be made upon receipt of the application. A request for supplemental information will be transmitted to the applicant by NRD staff for applications determined insufficient. The NRD will strive to issue permits within 24-hours upon receipt of

a complete permit application. Following permit approval drilling shall be scheduled prior to 6:30 a.m. on the drilling day. Upon issuance of a permit, the permit can be transmitted to the applicant via email, facsimile, mail or picked up and drilling can start at anytime of the scheduled day. The permit shall be placed in a ziplock plastic bag to protect it from inclement weather.

Permit Completion, Transfers, Exchanges, and Subcontracting: All entries on the Well Construction Permit Application must be *fully* completed. No permit shall be transferred or exchanged and any request for renewal must be made in writing to the NRD. Subcontracting may be authorized only due to extenuating circumstances.

Job Site Directions: The applicant for a well construction permit is responsible for providing clear, correct, and complete directions to the job site. The directions should be descriptive enough that a stranger to Lee County could find the location. These directions do not take the place of a site plan.

Permits are valid for 6 months: A well can be redrilled or relocated provided the permit has not been closed by NRD. The rehabilitation of an existing well because of extenuating circumstances will not require a new permit if rehab occurs within 6 months of the original drilling. Although a permit is not required, the NRD shall be notified of the proposed activity. Acceptable circumstances include drilling out a plug to set a pump, setting a screen, or redeveloping.

Casing Variances: In certain areas of Alva, the water in the Sandstone aquifer is too salty for potable use. A variance of the 30-foot casing requirement may be requested for domestic wells planned for construction in these areas (see Well Construction Permit for additional instructions).

Site Inspection Requirement: Permit applications for wells for new construction accompanied by Health Department/Environmental Engineering Division (HD/EE) approved site plans are exempt from site inspections by the Contractor. It is the Contractor's responsibility to make certain that a well construction permit application does not contain gross errors or materially misrepresents the facts. The revised well construction permit application includes a "Site Inspected: yes () no ()" item. If this item is checked "no" or not checked at all on an irrigation or replacement well application, the permit may be issued, but the well shall not be scheduled for construction until the site has been inspected by the Contractor or a well inspector. If the well inspector visits the site, an additional fee equivalent to reinspection fee will be added to the application fee.

Site Plans for Irrigation Wells: An irrigation well construction permit application shall have a detailed site plan showing distances from the proposed well location to septic systems both on the owner's property and adjoining properties. It is suggested that a copy of the approved septic system site plan be included with

the application. If the setback cannot be met, the applicant must apply to HD/EE for a variance.

Chapter 64E-6 F.A.C.: This Chapter authorizes the HD/EE to revoke a permit of an approved proposed or existing septic system if a new irrigation well is installed within the 50-foot setback. Chapter 64E-8 F.A.C. delegates variance authority to the HD/EE for replacement domestic wells that are less than 75 feet and irrigation wells that are less than 50 feet from a septic system.

Brokering Well Construction: The Contractor constructing the well must sign the well construction application. If another Contractor brokered the job, that should be shown on the application in the appropriate space. The Contractor brokering the job may sign the application also, but as an authorized agent of the owner.

Geotechnical Boring and Monitor Well Permits: A single permit shall be issued for all geotechnical borings located on an individual parcel. Likewise, a single permit shall be issued for all monitor wells located on an individual parcel. The Contractor shall be responsible for obtaining clearing permits, if necessary, in order to access the site.

Geotechnical borings constructed by hand does not require a permit, but must be filled with grout when completed. Geotechnical borings in bottoms of large surface-water bodies do not require well construction permits if the borings do not penetrate the first regional confining layer, which is usually 20 to 30 feet below land surface.

In cooperation with the Lee County Division of Environmental Sciences (ES), NRD will require that all geotechnical boring and monitor well construction permit applications indicate if the site has been checked with ES and a vegetation removal permit obtained, if needed.

For further information on the vegetation removal permits, call (239) 479-8323 or visit the Community Development/Public Works Service Center, 1500 Monroe Street, Fort Myers.

Sample Bottles: In order to help with the collection of water samples, the NRD staff will give a sample container bottle for each permit. All water samples shall be collected in the NRD provided laboratory containers.

Lee County Environmental Laboratory: This is a sterile environment. The outside of the sample bottles needs to be as clean as possible. If a well inspector is not present when the sample is collected, the Contractor shall ensure that the sample bottle is securely fastened to a fixed object located at the vicinity of the well. NRD suggests the use of duct tape or plastic cable ties (wire ties) be used to secure the sample bottles to the well casing. Lab procedures

require agitation of the water sample before analysis. Therefore, Contractors are required to collect a clear and clean sample as described in SECTION 6.5 of the Well Code.

STRAP Numbers: Effective July 1, 1998, STRAP numbers will be required on all well, geotechnical boring, and elevator shaft construction permit applications.

Construction Scheduling: All drilling inspection scheduling, anticipated interruptions and cancellation shall be logged on the inspection call-in scheduling recorder number provided on the well construction permit or application. The NRD must be notified of scheduled drilling prior to 6:30 a.m. of the day construction is to begin for any permit issued by the NRD.

Cancellation of Scheduled Construction: As soon as the need for cancellation/interruption arises, Contractors shall log the cancellation/interruption on the recorder. Failure to notify cancellations on the recorder prior to 11:59 p.m. of the day, for which work is scheduled, shall become a non-compliance with this Ordinance. All scheduled inspections that are not cancelled as stated above are subjected to a reinspection fee and a fine.

Excessive Cancellations: Failure to cancel a job prior to 6:30 a.m. of the day for which the work is scheduled shall be counted towards computing excessive cancellations. Excessive cancellations as described in Section II C of Appendix B, Disciplinary Guidelines, shall result in fines.

Specific Information Required on Permit Applications: In addition to the permit application and permit fee, the following information is required for processing permit applications depending on the type of project:

Domestic Supply Well (single family, duplex with multiple wells, multi-family, farm, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Lee County Health Department approved site plan;
- Lee County Health Department septic system permit;
- Letter of Intent to construct home within one year (as applicable); and
- Replacement Well Form, if applicable.

Irrigation Well (single family, duplex, multi-family, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations; and
- Replacement Well Form, if applicable.

Commercial Irrigation Well

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Water Use Permit (WUP) number and copy of WUP;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations; and
- Replacement Well Form, if applicable.

Agricultural Irrigation Well (Farm, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Water Use Permit (WUP) number and copy of WUP;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations; and
- Replacement Well Form, if applicable.

Fire Well (single family, duplex, multi-family)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations;
- Fire well engineering design calculations for fire suppression system water demand in accordance with National Fire Protection Association (NFPA); and
- Replacement Well Form, if applicable.

Fire Well (commercial, farm, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Water Use Permit (WUP) number and copy of WUP;
- Site plan sketch indicating proposed well and septic system locations;
- Fire well engineering design calculations for fire suppression system water demand in accordance with NFPA; and
- Replacement Well Form, if applicable.

Test Well (commercial, farm)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Water Use Permit (WUP) number and copy of WUP; and
- Site plan sketch indicating proposed well and septic system locations.

Piezometer Well (single family, duplex, multi-family, commercial, farm)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Site plan sketch indicating proposed piezometer location(s); and
- Correct proposed piezometer construction details.

Public Water Supply Well (commercial, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Lee County Health Department approved site plan;
- Lee County Health Department Form 4092;
- Water Use Permit (WUP) number and copy of WUP; and
- Replacement Well Form, if applicable.

Limited Use Community Public Water Supply Well (commercial, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Lee County Health Department approved site plan;
- Lee County Health Department Form 4092;
- Water Use Permit (WUP) number and copy of WUP; and
- Replacement Well Form, if applicable.

Geo-Thermal Supply and Injection Well (single family, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations; and
- Replacement Well Form, if applicable.

Geo-Thermal Supply and Injection Well (commercial, farm, replacement)

- A valid Lee County water well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed well and septic system locations;
- Florida Department of Environmental Protection injection well permit;
- Water Use Permit (WUP) number and copy of WUP; and
- Replacement Well Form, if applicable.

Geotechnical Boring

- A valid Lee County water well or geotechnical boring contractor license;
- STRAP number;
- Site address; and
- Site plan sketch indicating proposed boring locations.

Monitoring Well

- A valid Lee County water well or monitoring well contractor license;
- STRAP number;
- Site address;
- Correct proposed well casing and total well depth for aquifer production zone to be utilized;
- Site plan sketch indicating proposed monitoring well locations; and
- Replacement Well Form, if applicable.

SECTION II WELL CONSTRUCTION

Drilling After Regular Work Hours: While not prohibited, NRD strongly recommends that weekend, holiday and evening drilling be restricted to emergencies only. By doing so, the County well inspectors will be available to assist in the administration and enforcement of the County Well Code. The NRD has the authority to require certain phases of well construction to be witnessed by a well inspector, the Director's authorized representative, or an approved third party. Well construction initiated during regular work hours may continue beyond normal working hours of County well inspectors as required and authorized by NRD on a case specific basis. An after-hour inspection fee may be assessed for inspections performed outside normal working hours (7:30 a.m. to 4:00 p.m.) of county well inspectors.

Drilling Water: The quality of water used for drilling and well construction shall comply with the requirements specified in Chapter 40E-3 F.A.C.

Proper Placement of Casing: Chapter 40E-3 F.A.C. and the Lee County Well Code states specifically that the casing of a well must be seated into the production aquifer. It has been difficult to determine the casing depth in Lower Hawthorn wells because of lithology within the Lower Hawthorn confining unit. Subsequent studies have named these limestone sections as Zone II and Zone III of the Mid-Hawthorn aquifer (see attached Exhibit B schematic Three Dimensional Representation of Lee County Aquifers). Where there is only one zone, it is referred to as the Lower Mid-Hawthorn aquifer and the section above the confining unit as the Upper Mid-Hawthorn aquifer. Many times, utilizing of Zone II or Zone III (or Lower Mid-Hawthorn), were interpreted as reaching the Lower Hawthorn and casing was set accordingly. However, in many instances the yield was very small and open hole was drilled until the yield increased - which was probably the true Lower Hawthorn. The SFWMD classifies the permeable units as part of the Lower Hawthorn aquifer.

The SFWMD differentiates between aquifers more on the differences in the quality of the waters than on the differences in lithologies. This means, technically, that a well can connect two aquifers if the aquifers have the same quality of water. This rarely - if ever - happens except in the situation described

immediately above and possibly between the Lower Hawthorn and Suwannee aquifers.

Lee County Utilities Cypress Lakes Wellfield: This wellfield has three 285-foot deep production wells in the Brantley Road - College Parkway area. Irrigation wells drilled in this area after July 1993 are required to use a minimum of 350 feet of casing. The SFWMD's Well Abandonment Program located and plugged a well in the area in 1983. The well was 482 feet deep, 126 feet of steel casing, and the water had a chloride content of 2,900 milligrams/liter.

Grout: "Grout" means a mixture of Portland cement and water, and may include additives such as bentonite (not to exceed 4.7 lbs. per 94 lb. sack of cement), High Yield Drilling Mud (not to exceed 0.9 lbs. per 94 lb. sack of cement), calcium chloride (not to exceed 3 lbs. per 94 lb. sack of cement) or retarder (not to exceed 1 lb. per 94 lb. sack of cement), or other admixtures approved by the NRD. When using bentonite as an additive, an additional 0.65 gallons of water per percent of bentonite may be used. When using High Yield Drilling Mud as an additive, an additional 0.80 gallons of water per percent of High Yield Drilling Mud may be used. The bentonite or High Yield Drilling Mud should always be pre-hydrated before introducing the cement into the mixture. Neat cement grout is a mixture of Portland cement and water without any additives. Neat cement grout composition shall not exceed six (6) gallons of water per 94-pound sack of Portland cement.

One sack of cement equals one cubic foot (cu ft); six gallons of water equal 0.8 cu ft, but a slurry of 6 gallons of water and 1 sack of cement occupies 1.28 cu ft. The annular space in an 8-inch borehole with 4-inch (4.5" O.D.) casing (4"x 8") is 0.2385 cu ft per linear foot. Therefore, assuming a consistent 8-inch borehole and no lost circulation zones, the 6:1 slurry will fill 5.4 feet of annulus (1.28/0.2385). If a 100-foot well casing is used, 18.6 sacks of cement will be needed for a proper grout job.

The *Halliburton Cementing Tables*, Section 230.15, states that if five (5) percent bentonite (about 4.7 lbs. of bentonite per 94-lb. sack of cement) is added to the cement grout, the maximum recommended amount of water is 8.5 gallons per sack of cement. This would yield a slurry volume of 1.71 cu ft per sack. This mixture would fill 6.6 feet of annulus in a 4"x8"x100' well and would require 15.2 sacks of cement and 71.44 lbs. of bentonite. These figures also assume a consistent 8-inch borehole and no lost circulation zones.

The typical 55-gallon barrel is 22 inches in diameter, 34 inches in height, and holds 7.47 cu ft. Each inch of depth in the barrel holds 1.64 gallons. To ensure adequate mixing of neat cement, no more than 24 gallons of water shall be used for mixing a 4-sack barrel and no more than 30 gallons used for a 5-sack barrel. The depth of 24 gallons is 14.59 inches and 30 gallons is 18.24 inches. After mixing, a 4-sack slurry should have 10.65 inches of freeboard (distance between

top of barrel and top of slurry) in the barrel and the 5-sack mix should have 4.82 inches. The numbers for these two mixtures in the plastic, curved-sided barrels have not been determined.

A 3-sack mix of 5 percent bentonite occupies 5.15 cu ft (3 sacks, 27.75 gallons, and 14.1 lbs. of bentonite). This is roughly the same volume as the 5.12 cu ft of the 6:1 neat cement. The 3-sack cement-bentonite slurry will require 16.87 inches of water in the barrel and the 4-sack, requires 22.5 inches.

If the well inspector witnesses grout return, the well will be approved. If the inspector does not witness the return and is not present when the well is completed, the well shall not be dry bagged. Whenever the well is inspected, if the grout is within five (5) feet of natural grade, the well will be approved. If deeper than five (5) feet, the Contractor will be notified to add grout. When the Division has been notified that the additional grouting is complete, the well will be re-inspected and approved.

Grout Shrinkage: There continues to be grout shrinkage even with the new mixing combinations. This was expected, but in some cases, the shrinkage has been excessive; i.e., more than five feet. Some grout should be saved and poured in the annulus around the well just as the site is about to be vacated. This should be sufficient to fill any shrinkage occurring during demobilization and will be much better than dry bagging.

Use of Surface Casing: If a loss circulation zone causes difficulty in setting casing, the Lee County Well Drilling Inspector can instruct the driller to set surface casing or some other method to control the bore hole until the production casing is set and properly grouted. If the driller refuses, the inspector can withhold approving the well and/or suspend well construction.

Approved Well Casing: SDR 26 PVC pipe shall not be used for well casing in Lee County. Lee County Well Code states that "All well casings shall meet or exceed State specifications." South Florida Water Management District's Chapter 40E-3, FAC states, in part, that "Any PVC pipe larger than 4.5 inches outside diameter used for well construction or repair shall have a working pressure rating of not less than 200 p.s.i. at 73 degrees F. or shall be ASA Schedule 40." Florida Department of Environmental Protection's Chapter 62-532.500 (1) (e) states, in part, that "Any PVC pipe used for well construction or repair shall at a minimum meet the specifications for Schedule 40 or Standard Dimension Ratio (SDR) 21."

PVC PIPE PRESSURE RATINGS
(In pounds per square inch)

Nominal Diameter (Inches)	Pipe Class					
	SDR 26	SDR 21	SDR 17	SDR 13.5	Schedule 40	Schedule 80
2	160	200	250	315	280	400
4	160	200	250	315	220	320
6	160	200	250	315	180	280
8	160	200	250	315	160	250
10	160	200	250	315	140	230
12	160	200	250	315	120	230

Chapter 40E-3s regulations are for 6-inch (some say 5-inch) diameter well casing and larger, except for public water supply wells, which are covered regardless of diameter. Therefore, NRD interprets SFWMD and FDEP regulations as covering all diameters. In that case, the above chart shows that Schedule 40 is rated at less than 200 p.s.i. in diameters larger than 4 inches. SFWMD states that although the regulations appear to be contradictory or confusing, larger than 4-inch diameter Schedule 40 well casing, although rated at less than 200 p.s.i., is permitted and the NRD would not be in violation by allowing its use. However, SDR 26 well casing is neither Schedule 40 nor rated at 200 p.s.i. and is not permitted by NRD.

GROUT MIXTURE CARDS: These cards are available upon request. Please call tel. 239 479 8114 to request a grout mixture card. It can also be picked up at the well permitting counter at first floor of the Community Service/Public Works Center building.

SECTION III ADMINISTRATION

North Limit of Lower Tamiami Aquifer. The Code states that in the Bonita Springs area, irrigation wells shall not be constructed in the Lower Tamiami aquifer. The boundaries of the Bonita Springs area are shown on a map attached to the Code. The north boundary follows the line between the first and second rows of sections in Township 47 South and Ranges 25 and 26 east. This imaginary line extends from the Lee-Collier county line due west to Estero Bay. In the northwestern part of the Bonita Springs area, this line is about one-half mile north of, and parallel with, Coconut Road. This boundary is still in effect.

It is the position of NRD that the first water-producing zone below the regional confining unit is the principal aquifer for supplying potable water in the northwestern Bonita Springs area. Therefore, to protect it from exceeding its maximum safe yield by the addition of a potentially large number of irrigation wells, this zone is designated the Lower Tamiami aquifer and irrigation wells shall be prohibited.

Well Plugging Program: Chapter 40E-3 Florida Administrative Code and the Well Code require that abandoned wells be plugged. All wells discovered by NRD staff shall be plugged by the owner at his/her expense. A plugging permit is required, but no fee is charged. Well plugging shall be performed only by licensed water well contractors.

Prohibition of Irrigation Wells in the Lower Tamiami Aquifer: The Code states that new (after September 1, 1991) irrigation wells are prohibited from utilizing the Lower Tamiami aquifer. The reason for the prohibition is to reserve the aquifer for domestic supplies. Therefore, any proposed use of a well that does not include domestic consumption or an LUCPWS permit is prohibited. For example, wells to supply water to a car wash are prohibited from using the Lower Tamiami aquifer. However, a well furnishing the water for a stand-alone restroom (comfort station requiring a LUCPWS permit), can utilize the Lower Tamiami aquifer. If an irrigation well completed in the Lower Tamiami aquifer fails, the replacement well may be completed in the Lower Tamiami aquifer.

Correction of Violations: In all cases, corrections of violations must be scheduled, witnessed by a County well inspector, and completed during County normal work hours.

Well Completion Reports: All well completion reports must be received by the NRD within thirty (30) days of well completion. Well completion reports are also required for geotechnical borings.

Number of Wells per Lot: Chapter 40E-2, F.A.C. state that a single-family residence may have only one (1) domestic well, one (1) irrigation well, and one (1) fire well. Additional wells for any use will require WUPs and/or LUCPWS permits.

Sharing Wells: Chapter 40E-3 F.A.C. and the Code do not prohibit two single-family residences from sharing a domestic and/or irrigation well. The residences can be on conventional-sized lots, zero-lot-line lots, or common wall lots. However, two or more residences on one domestic well may fall under LUCPWS and should be approved by HD/EE prior to submitting permit application to NRD. Each zero-lot line lot and each common-wall lot may also have its own well. Sharing an irrigation well is quite common among winter residents in areas of North Fort Myers. However, if the well is drilled in a lot easement, there is the possibility of it being destroyed if the easement is used later. Chapter 373.217

Florida Statutes, which prohibits transporting water, does not apply to single-family residences because a water use permit is not required.

Rental Duplexes: If the owner lives in one unit of a rental duplex or if the owner does not charge rent for the second unit, the duplex is considered a single-family residence by the Well Code. However, at the HD/EE's request, if a single well is to supply water to both units, the setback from the septic system shall be one hundred (100) feet. If a well is constructed for each unit, whether the duplex is single family or rental, setbacks may be seventy-five (75) feet for each well.

Abandonment of Wells: The definition of an abandoned artesian well in Florida Statute 373.203 (1) includes "(b) the use of which has been permanently discontinued". Section 3 of this Code (as amended) defines an abandoned well, in part, as "...not capable of being operational throughout the year". Therefore, if a well is unable to provide water throughout the entire year, especially in the dry season, it is considered inoperable and shall be abandoned. These definitions apply to the condition of the well only. If the well is inoperable because of a dysfunctional pump or the pumping water level in the well is below the lift capacity of the centrifugal pump, the well may become operational again by repairing the pump or replacing it with a submersible pump.

If a well is to be abandoned, Chapter 40E-3, Florida Administrative Code states that the well shall be filled from bottom to top with neat cement by a licensed water well contractor.

The NRD now has available a form letter to give to your well customers with the above statement. Wells that are non-working any part of the year or that are galvanized and have corrosion that may contaminate the aquifers must be plugged.

APPENDIX B
LEE COUNTY WELL CODE

WELL CONTRACTOR'S
DISCIPLINARY GUIDELINES

I INTRODUCTION

The purpose of this document is to establish disciplinary guidelines for the enforcement of the Lee County Well Code. The Guidelines specify fines and penalties for selected violations. Enforcement of these guidelines by the Lee County Natural Resources Division (NRD) will be in a consistent and impartial manner and adhere to the intent of protecting the public's health, safety, and welfare; and the groundwater resources.

II DISCIPLINARY GUIDELINES

Generally, administrative fines will be imposed for violations of the Code. Fines may range from \$ 50 to \$ 500 for each separate violation. Penalties may restrict the scope of a Contractor's practice or the status of his/her license. A violation may receive a penalty, a fine, or both. Repeat violations of this Ordinance may result in a more severe fine or penalty, or both. Reinspection fees and after-hour inspection fees are shown in the Lee County Administrative Code AC-3-10 Appendix C External Fee and Charges Manual.

A Definitions of Disciplinary Actions

1. **Fine:** Fines are generally imposed for any violation that does not pose a risk to the public welfare or to the groundwater resources. Fines are generally for violations in non-compliance of procedural or administrative sections of the Code. However, gross non-compliance violations such as drilling without a permit may be assessed penalties as well. In addition, repetition of a violation that has received an administrative fine may be changed to the penalty form of disciplinary action.
2. **Penalty:** Penalties are the more severe form of disciplinary action and are generally imposed for any violation that presents a risk or

potential risk of harm to the ground-water resources or to the public health, safety, and welfare.

B Penalties

1. Denial of an application for licensure or for renewal of a license
2. Revocation of a license for not less than one year during which time the licensee cannot construct, repair, or abandon a well, geotechnical boring, or elevator shaft.
3. Suspension of a licensee for a period of one to 6 months, during which time the licensee cannot construct, repair, or abandon a well, geotechnical boring, or elevator shaft.
4. Place the licensee on probation for up to 6 months, during which time the licensee would be required to give the NRD a minimum of 24 hours notice prior to construction, repair, or abandonment of any well, geotechnical boring, or elevator shaft.
5. Place the licensee on probation for up to 6 months, during which time the licensee cannot perform a specified stage of construction unless said construction is scheduled during County work hours and witnessed by a County well inspector.
6. Restriction of the licensee's authorized scope of practice for a selected period of time. Such restrictions may apply to a specific activity (construction, repair, or abandonment), a specific type of well, a specific drilling method, a specific geographic area, or a specific period during the week.
7. Denial of permits for new construction until violation is corrected.
8. Impositions of an administrative fine of up to \$ 500 for each count or separate violation.
9. Plug the well, pay fine of \$ 500, and obtain permit for each well. Upon inspection of the well, the NRD staff may waive the requirement for plugging the well and authorize an after-the-fact permit.
10. Well construction halted for 24 hours or until correction of non-compliant activity.
11. Prohibit scheduling of construction until violation is corrected.

C VIOLATIONS

Violations of the provisions of this Ordinance include the following:

(1) No Permit: The construction of any type of well, geotechnical boring, or elevator shaft in Lee County, without a valid well construction permit issued by NRD, SFWMD or other delegated authority. (SECTION 6.1)

(2) Permit not Posted: The construction of any type of well, geotechnical boring or elevator shaft in Lee County, without conspicuously posting a well construction permit, issued by NRD, SFWMD or other delegated authority, at the job site. Permits that were posted, but are missing at the time of inspection shall be considered not posted. (SECTION 6.1)

(3) No Water Sample: Failure to collect a sediment free clean water sample in the NRD supplied container following well development or to deliver the water sample to NRD staff according to Appendix A, Procedures Manual. It is the Contractor's responsibility to ensure the water sample is properly labeled. (SECTIONS 6.5 and 9.3.2(19))

(4) No Well Specifications On Site - The construction of any type of well, geotechnical boring or elevator shaft, without providing the actual construction specifications at the job site. It is the Contractor's responsibility to provide as-built construction information on the permit posted and water sample bottle. (SECTION 6.5)

(5) No License - The construction of any type of well, geotechnical boring or elevator shaft without obtaining the appropriate Lee County contractor license. (SECTION 10.1)

(6) Invalid License - The construction of any type of well, geotechnical boring or elevator shaft with an invalid Lee County contractor license. (SECTIONS 6.1 and 9.1)

(7) Un-named Drilling Rigs - The construction of any type of well, geotechnical boring or elevator shaft using a drilling rig that does not display the State and Lee County contractor license number and drilling company name in permanent lettering with a minimum of 2 inches in height. (SECTION 6.13)

(8) Failure to Schedule or Cancel Activity – The initiation of construction of any type of well, geotechnical boring or elevator shaft without scheduling an inspection. The cancellation or cessation of construction of any type of well, geotechnical boring or elevator shaft without notifying NRD of the cancellation. (SECTIONS 6.2(3) and 8.2.1(5))

(9) Scheduling a Job that was Previously Completed and Inspected – The scheduling of a drilling job for inspection that was previously completed and inspected. (SECTION 8.2.1(5))

(10) Cancellation Frequency Exceeds 30 Percent in any given month– The Contractor has scheduled more than 50 inspections in any given month, and subsequently has cancelled over 30 percent of scheduled inspections after 6:30 a.m. of the day construction is to be commenced. (SECTION 8.2.1(5) and Appendix B, Disciplinary Guidelines)

(11) Fraudulent Misrepresentation on a Permit Application – Attempting to obtain or obtaining a permit by bribery or fraudulent misrepresentation of information. (SECTION 6.1)

(12) Well Completion Report Late or Missing – The failure to provide NRD with a completion report for any type of well or geotechnical boring constructed in Lee County, within thirty (30) days following completion of the well or geotechnical boring(s). (SECTION 6.5)

(13) Failure to Correct a Violation – The failure to take the action required to correct a violation of this Ordinance, following notification by NRD of the violation, within seven (7) calendar days. (SECTION 8.2.4)

(14) Failure to Pay a Fine within 30 days – The failure to remit payment within thirty (30) calendar days of a fine issued by NRD for violation of this Ordinance. (SECTION 8.2.4)

(15) Failure to Comply with Imposed Penalty(s) or voluntary compliance – The failure to comply with any penalty(s) imposed by NRD due to violation of this Ordinance or breach of voluntary compliance following mediation. (SECTIONS 8.2.4 and 5.6.3)

(16) Failure to Comply with Conditions for Issuance of Permits– Failure to comply with any of the conditions for issuance of permits listed in this Ordinance. (SECTION 6.2)

(17) Failure to meet septic system setback – Construction of a well that does not meet setback requirements of the Lee County Health Department. (SECTIONS 6.1 and 6.2)

(18) Use of Unapproved Casing – The construction of any type of well or elevator shaft using a well casing material that is not approved by this Ordinance. (SECTION 9.2, 9.3 and Appendix A, Procedures Manual)

(19) Use of Unapproved Materials – The construction of any type of well, geotechnical boring or elevator shaft using any materials that are not approved by this Ordinance. (SECTION 9.2)

(20) Insufficient Annular Space – The construction of any type of well or elevator shaft without achieving the required minimum annular space (two inches) over the entire cased interval of the borehole. (SECTION 9.3.2(4))

(21) Insufficient Wellhead Height – The construction, completion or alteration of a well casing that results in the top of the well casing being less than twelve (12) inches above the finished grade elevation. (SECTION 9.3.2(11))

(22) No Temporary Well Seal or Sanitary Seal – The failure to utilize a sanitary well seal during the temporary cessation of drilling activities or the failure to install a sanitary seal on a well following construction completion. (SECTION 9.3.2.(7))

(23) Incomplete Grout Stage – The failure to install the required volume or type of grout into any portion of the annulus or annular space of any type of well or elevator shaft. (SECTION 9.3.2)

(24) Tremie Pipe Improperly Installed or modified– The use of a tremie pipe which is not properly installed in accordance with this Ordinance, or a tremie pipe with exit notches or slits not located within 3 feet from the seal. (SECTION 9.3.2(8))

(25) Borehole left Open without Grout – The failure to grout any borehole in accordance with the grouting requirements of this Ordinance. (SECTION 9.3.3(4))

(26) Casing Improperly Installed and Seated – The failure to install the casing at the proper depth where the bottom of the casing does not extend beyond the top of

water bearing aquifer to be used. Seating of the well casing must ensure proper placement of the casing seal (rubber boot). (SECTION 9.3.2)

(27) Improper Grout Mixture – The use of any grouting mixture that does not meet the grout mixture specifications of this Ordinance. (Appendix A, Procedures Manual & Ch 40E-3)

(28) Drilling Water fails to Meet Chapter 40E-3, F.A.C. – The use of water for drilling that does not comply with the water quality requirements of Chapter 40E-3 Florida Administrative Code.

(29) Incomplete Well Development – The failure to thoroughly develop a well using the method of well development appropriate for the well construction and the site conditions to ensure complete removal of all sand, drilling mud, drill cuttings and other debris from the well before collecting a clear and clean water sample in a NRD provided container. (SECTIONS 9.3.2 (3) and (19))

(30) Failure to Plug a Replaced Well – The failure to properly plug an existing well that has been replaced within two (2) weeks of the completion of the replacement well. (SECTION 9.3.6)

(31) Failure to Plug an Abandoned Well – The failure to plug any abandoned well in accordance with the requirements of this Ordinance. (SECTION 9.3.4)

(32) Leaking Wellhead Seal – The failure of a wellhead seal to prevent discharge from a flowing artesian well or to prevent the introduction of surface water into the wellhead. (SECTION 9.3.2(12))

(33) Collapse/Open Annulus or Aquifer Contamination – Collapse or open annulus space that allows surface water to enter the subsurface, or aquifer contamination. (SECTIONS 9.3.2(3), (9) and (10))

(34) Failure to Comply with Contractor Responsibilities – The failure to comply with each of the Contractor responsibilities listed in this Ordinance. (SECTION 10.4)

III REPETITION OF VIOLATIONS

Repeat violations of the same rule indicate either a Contractor's refusal to follow the Code or an unacceptable knowledge of the Code. Because the Code was promulgated to protect the groundwater resources and the public health, safety and welfare, it is imperative that the rules and requirements are followed and repetition is minimized. Therefore, even if corrective action was taken on previous violations, repetition of the same violation can increase both the fine and the penalty of a violation.

Frequent or repeat violations, disregard or ignorance of well code has potential for endangering public health, safety, and welfare, or contaminating groundwater resources.

Contractors who repeatedly violate the provisions of this Ordinance may be denied the applications for license renewal. In a three (3) year period, Contractors who accumulate fines totaling more than \$3,000 (three thousand dollars) for combined administrative and construction violations (except for violations for the failure to cancel or schedule an activity), or whose license(s) had been suspended or revoked for a period of 12 months or more, shall have their license(s) revoked, and not be eligible for future applications for a license or license renewal.

DISCIPLINARY ACTION PROCEDURES

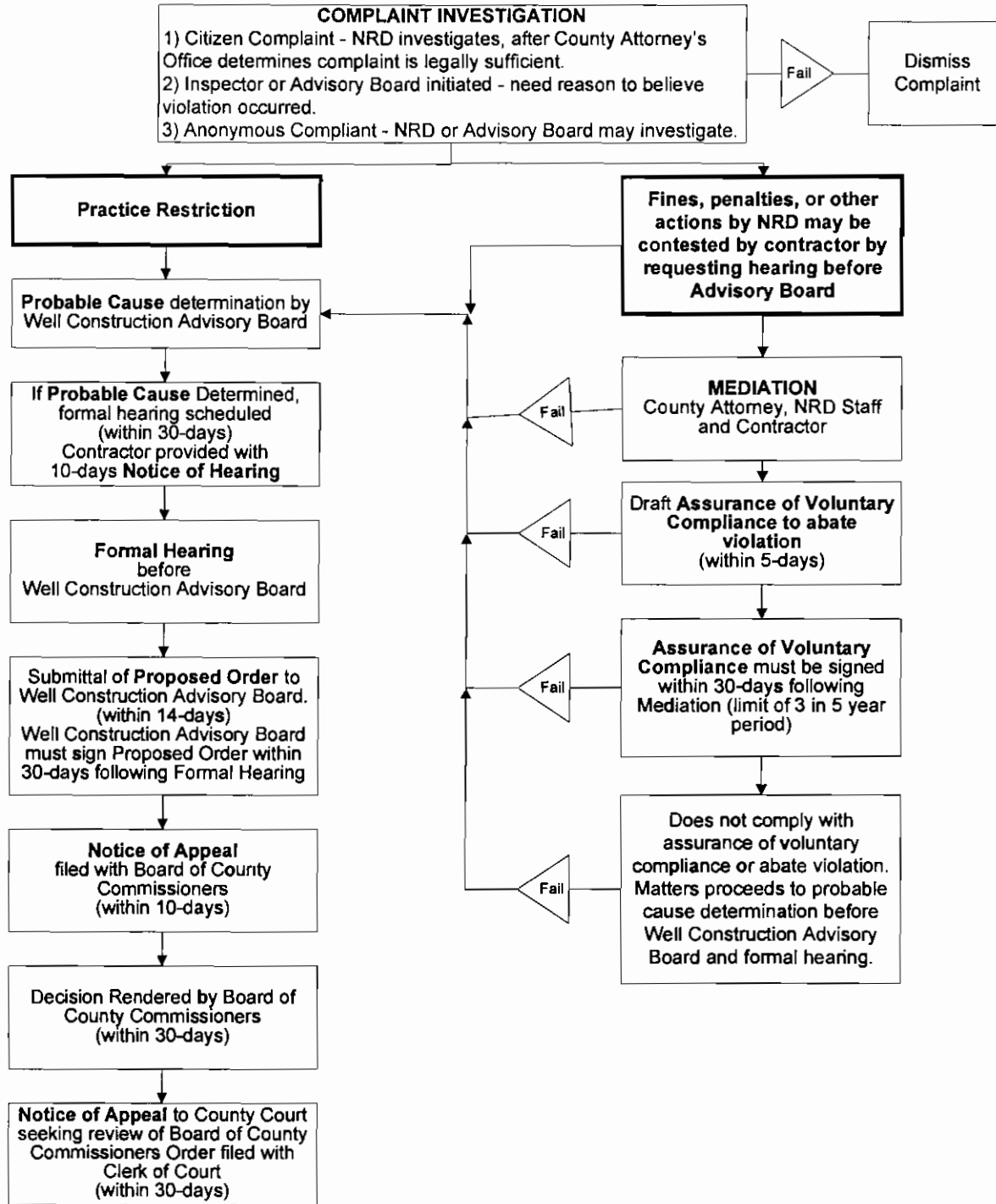


TABLE 1. ADMINISTRATIVE VIOLATIONS

Violation	Fine				Penalty ¹			
	First	Repetitions			First	Repetitions		
		1	2	3 ²		1	2	3 ²
No permit	\$500 ²				(#7, #9) ²	#3	#2	#1
Permit not posted	\$50	\$100 ²						
No water sample	\$50	\$100 ²						
No well specifications on site	\$50	\$100 ²						
No license					#7, #9	#1		
Invalid license					#11, (#7, #9) ²	#3 ²	#2	#1
Unnamed drilling rigs	\$50	\$100	\$200	\$400	#7			
Failure to schedule or cancel an activity	\$50	\$100 ²			(#7, #10) ²			
Scheduling a job previously completed and inspected	\$50 ²							
Cancellation frequency exceeds 30 % in any given month	\$200 ²							
Fraudulent misrepresentation on permit application	\$50	\$100	\$200	\$400	(#7, #6) ²	#3 ²		
Well completion report late or missing	\$50	\$100 ²			#7 ²			
Failure to correct a violation	\$50	\$100	\$200	\$400	(#7, #11) ²			
Failure to pay a fine within 30 days					(#7, #11) ²			
Failure to comply with imposed penalty(s) or voluntary compliance	\$50	\$100	\$200	\$400	(#7) ² , #3	#8, #2	#1	
Failure to comply with conditions for issuance of permits	\$50	\$100	\$200 ²		(#7, #10) ²	#6 ²	#5 ²	#3

¹ Numbers in the penalty columns refer to the disciplinary actions shown in Section II B

² Superscript 2 indicates that the fine or the penalty shall apply to repetitions thereafter

TABLE 2. CONSTRUCTION VIOLATIONS

Violation	Fine				Penalty ¹			
	First	Repetitions			First	Repetitions		
		1	2	3 ²		1	2	3 ²
Failure to meet septic system setbacks					#7 ²			
Use of unapproved casing	\$50 ²				#7 ²			
Use of unapproved materials	\$50 ²				#7 ²	#5 ²		
Insufficient annular space	\$50 ²				#7 ²	#5 ²		
Insufficient wellhead height	\$50	\$100	\$200 ²		#7 ²	#5 ²		
No temporary well seal or sanitary seal	\$50	\$100 ²						
Incomplete grout stage	\$50	\$100	\$200	\$400	#7 ²	#5 ²	#4, #8 ²	#3
Tremie pipe improperly installed or modified	\$50	\$100	\$200	\$400	#7 ²	#5 ²	#4, #8 ²	#3
Borehole left open without grout	\$500 ²				(#7, #5) ²	#8 ²	#3 ²	#2
Casing improperly installed and seated	\$50	\$100	\$200 ²		#7 ²	#5 ²	#4, #8 ²	#3
Improper grout mixture	\$50	\$100	\$200	\$200	#5	#8	#3 ²	
Drilling water fails to meet Ch. 40E-3, F.A.C.	\$50	\$100	\$200	\$400				
Incomplete well development	\$50	\$100 ²			#7 ²			
Failure to plug a replaced well	\$50	\$100	\$200	\$400	#7 ²			
Failure to plug an abandoned well	\$500 ²				#7 ²	#3 ²	#2	#1
Leaking wellhead seal	\$50	\$100 ²			#5 ²			
Collapse/open annulus or aquifer contamination					#7 ²			
Incomplete well development	\$50	\$100 ²			#7 ²			
Failure to comply with contractor responsibilities	\$50	\$100	\$200	\$400	(#7, #8) ²	#6 ²	#5 ²	#3

¹ Numbers in the penalty columns refer to the disciplinary actions shown in Section II B

² Superscript 2 indicates that the fine or the penalty shall apply to repetitions thereafter

APPENDIX C
LEE COUNTY WELL CODE

EXTERNAL FEES AND CHARGES MANUAL

DEPARTMENT: Public Works
DIVISION: Natural Resources
PURPOSE: Well Permit Fees, Inspection Fees, and License Fees
BASIS FOR FEE:
DATE APPROVED:

WELL PERMIT FEES

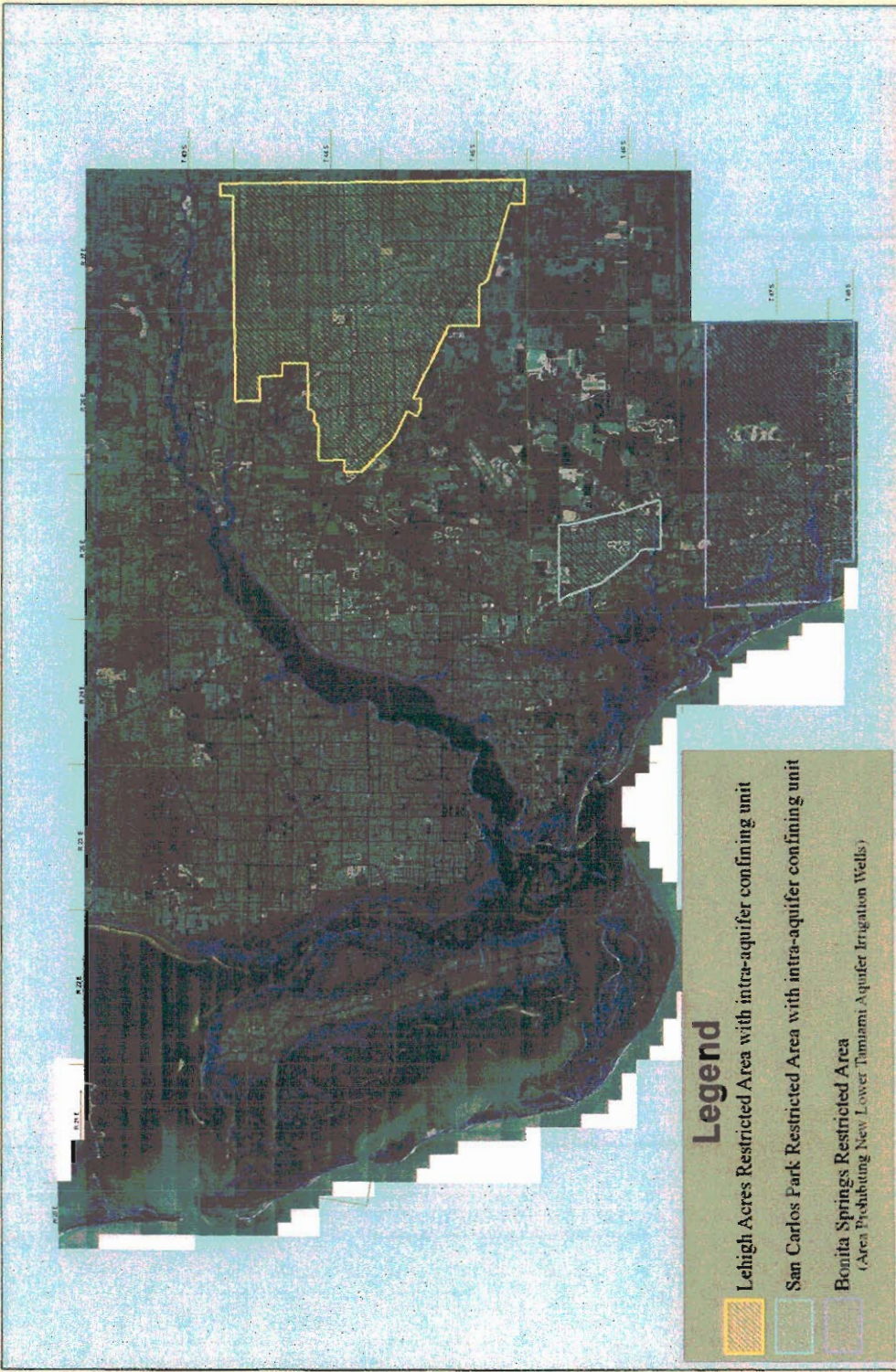
PERMITS:	FEES
Water Wells: Commercial	\$200.00 per well
Recovery	\$200.00 per well
Residential	\$150.00 per well
Fire Protection	\$150.00 per well
Multi-Residence Rental (Duplex, Triplex, etc.)	\$200.00 per well
Permit Time Extension	\$50.00
Permit Application Late Fee	\$50.00
Elevator Shaft:	
Drilling	\$150.00 per shaft
Grouting	\$150.00 per shaft
Monitor Well	\$50.00 per well
Geotechnical Borings	\$100.00 for up to first 6 holes and \$20.00 for each additional hole
Well Plugging	No Charge
Existing Well Inspection Permit	\$40.00

INSPECTION FEES




First Reinspection	\$75.00
Second Reinspection	\$125.00
Third and Subsequent Reinspection	\$175.00
After Hour Inspection	\$ 65.00 per hour

LICENSE FEES

Water Well, Monitor Well or Geotechnical Boring Contractor License or License Renewal	\$75.00 every 2 years
Late Fee for License Renewal	\$50.00



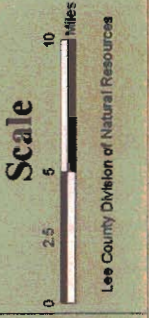
Legend

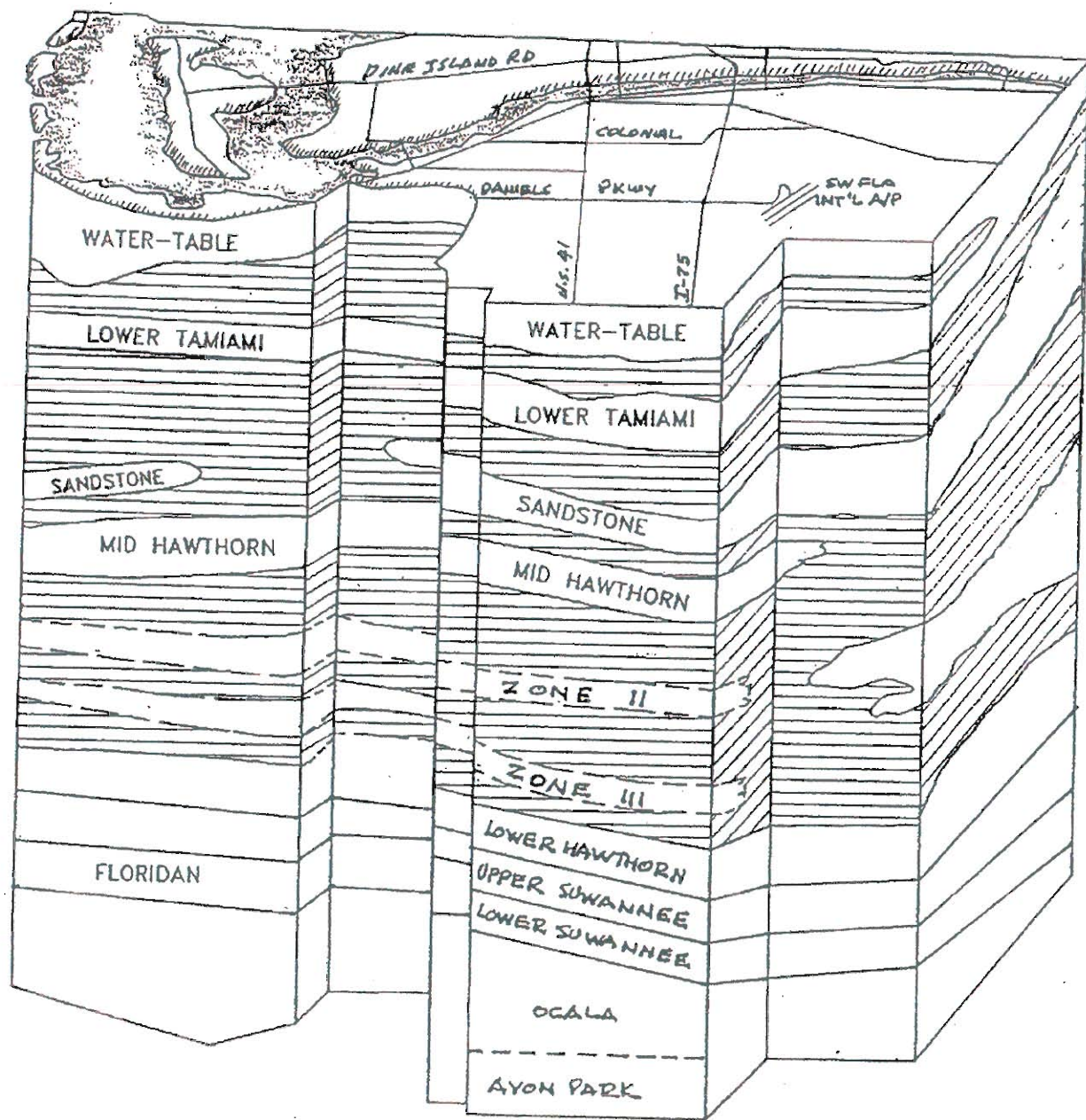
-  Lehigh Acres Restricted Area with intra-aquifer confining unit
-  San Carlos Park Restricted Area with intra-aquifer confining unit
-  Bonita Springs Restricted Area
(Area Prohibiting New Lower Tamiami Aquifer Irrigation Wells)



March, 2006

**Exhibit A. Lee County Well Code Ordinance
Intra-Aquifer Confining Unit - Restricted Areas
in Lehigh Acres and San Carlos Park
Irrigation Well Restricted Area - Lower Tamiami Aquifer**







FLORIDA DEPARTMENT OF STATE
Sue M. Cobb
Secretary of State
DIVISION OF LIBRARY AND INFORMATION SERVICES

June 23, 2006

Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Michele G. Cooper, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 16, 2006 and certified copy of Lee County Ordinances 06-08, 06-09, and 06-10, which were filed in this office on June 20, 2006.

Sincerely,

Liz Cloud
Program Administrator

LC/mp

COPY

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MINUTES OFFICE

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