

LEE COUNTY ORDINANCE NO. 06-___

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE NO. 06-09 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; DEFINITIONS; WELL USE CLASSIFICATIONS; ESTABLISHMENT OF A WELL CONSTRUCTION ADVISORY BOARD; PROVIDING FOR COMPLAINTS, MEDIATIONS, FORMAL HEARING PROCESS, AND APPEALS; LICENSING; PROVIDING FOR PERMITTING PROCEDURES; PROVIDING FOR GEOTECHNICAL BORINGS AND PERMITS, TEST WELL REQUIREMENTS; DRILLING INSPECTORS AND INSPECTIONS; PROVIDING FOR CONSTRUCTION OF WELLS, BORINGS, AND SHAFT HOLES; SUPPLEMENTAL REGULATIONS; ENFORCEMENT ACTIONS; INCORPORATION OF APPENDICES FOR A WELL CODE PROCEDURES MANUAL ("A") AND CONTRACTOR'S DISCIPLINARY GUIDELINES ("B"); PROVIDING FOR CONFLICTS; SEVERABILITY, INCLUSION IN THE LEE COUNTY CODE, SCRIVENOR'S ERRORS; AN EFFECTIVE DATE; AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING.

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

WHEREAS, the Lee County Board of County Commissioners recognizes the Agreement between Lee County and South Florida Water Management District," dated September 13, 2005, wherein Lee County received a delegation of authority from the South Florida Water Management District; and

WHEREAS, Lee County staff has the authority to interpret the content of this Ordinance; and

WHEREAS, the proposed repeal and replacement of Lee County Ordinance No. 06-09 was reviewed and approved by the Lee County Well Construction Advisory Board during 2015; and

WHEREAS, the proposed repeal and replacement of Lee County Ordinance No. 06-09 was also reviewed and approved by the Lee County Executive Regulatory and Oversight Committee on September 9, 2015; and

WHEREAS, the Lee County Board of County Commissioners recognizes the delegation of authority for permitting well construction and abandonment and activities associated therewith; and

WHEREAS, in accordance with the authority delegated to it by the South Florida Water Management District, the Board seeks to revise the Well Code to be consistent with the delegated authority and recent changes in State law.

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

SECTION ONE: REPEALER

Lee County Ordinance 06-09, otherwise known as the Lee County Well Code, is hereby repealed, declared void and without further effect, except as provided herein. Notwithstanding the foregoing, any well previously permitted will not be invalidated by the adoption of this Ordinance; however, any change in use, operation or physical configuration must be in accordance with this Ordinance. Additionally, any prior unabated or uncorrected violation of Lee County Ordinance No. 06-09 will remain as such until abated or corrected in accordance with the requirements of this Ordinance.

SECTION TWO: PURPOSE AND SHORT TITLE

This Ordinance is known and will be cited as the Lee County Well Code (“Well Code”). This Ordinance provides the very minimum requirements for safeguarding life, health and public welfare by regulating 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 practices, to safeguarding water resources and to standardize drilling and related practices.

SECTION THREE: 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, 62-555 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 must be applied.

SECTION FOUR: TERRITORIAL SCOPE

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

SECTION FIVE: DEFINITIONS

The following words, terms, and phrases defined below, when used in the Well Code, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Undefined words, terms, and phrases shall have their common meanings, except where the context clearly indicates a different meaning.

ABANDONED WELL – means a well having any one or more of the following characteristics:

1. without a valid South Florida Water Management District (SFWMD) Water Use Permit; or
2. whose construction does not meet State or County standards; or
3. which is not approved by Lee County Division of Natural Resources (hereinafter referred to as DNR) within 90 days of inspection completion; or
4. whose purpose or use has been permanently discontinued; or
5. which is in a such a state of disrepair that its purpose cannot be reasonably achieved; or
6. acts as a source of ground water contamination; or
7. that is detrimental to water resources of the DNR or South Florida Water Management District (hereinafter referred to as SFWMD).

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

ANNULUS OR ANNULAR SPACE – means 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 – means approved by the DNR or other authority having jurisdiction over the proposed activity.

APPROVED MATERIALS – means materials specified by Chapter 40E-3, Florida Administrative Code (F.A.C.), as it may be amended from time to time, and as otherwise specified in this Ordinance.

AQUIFER – means 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 – means 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 uppermost confining unit. 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, through impermeable strata into strata receiving water from an area at a higher altitude than that of the well, so that there is sufficient pressure to force water to flow upwards.

ARTIFICIAL RECHARGE – means the practice of increasing by artificial means the amount of water that enters a groundwater reservoir

BENTONITE – means a material used in the drilling industry and available in the following different grades:

Non-drilling grade: Specially processed, coarse ground bentonite, or

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

BOARD - means the Board of County Commissioners of Lee County, Florida.

CASING DIAMETER – (also referred to as “diameter of casing”) means 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.

CATHODIC PROTECTION WELLS- also known as “deep groundbeds,” means those devices widely utilized and installed to protect metallic objects in contact with the ground from electrolytic corrosion, particularly structures within the oil, natural gas and water industries.

CONSOLIDATED – means 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 – means 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 – means the stages of well construction considered by the DNR 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 - means the Director of the Lee County Division of Natural Resources, 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.

DIRECT PUSH – means a rig that pushes tools into the ground for retrieving soil samples or for retrieving water samples by construction of a monitor well.

DISCIPLINARY GUIDELINES – means APPENDIX “B,” entitled “Well Contractor’s Disciplinary Guidelines,” attached hereto and incorporated herein by reference, and specifies procedures, fines and penalties for selected violations.

DNR – means the Lee County Division of Natural Resources.

DOMESTIC WELL – means a water supply well installed and utilized to provide water for a residential dwelling unit and where, if multiple residential dwelling units are supplied, not more than one unit is utilized as a rental unit. A domestic well may also be utilized as an irrigation source.

DRILLER – means 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 – means 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 – means 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.

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

EMERGENCY NEED – means 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– means an inspection performed by DNR staff to confirm compliance of an existing well with the requirements of this Ordinance and Lee County Administrative Code AC-12-4.

EXTERNAL FEE MANUAL means Section 11-0 of the External Fees & Charges Manual contained in Lee County Administrative Code AC-3-10.

FIRE WELL – means a well installed and utilized solely for providing water supply sufficient for firefighting purposes.

GEOTECHNICAL BORING – Also referred to as a test boring, a test hole, or a standard penetration test, means a boring performed with a boring or direct push drilling rig to obtain data for engineering studies, seismographic, geophysical, or geological exploration and data on subsurface conditions for engineering design or prospecting for minerals.

GEOTECHNICAL BORING SPECIALTY CONTRACTOR – means a Lee County licensed drilling contractor with a geotechnical boring specialty drilling license.

GEOTHERMAL CLOSED LOOP SYSTEMS – means a system that uses water and an antifreeze solution circulated through a closed-loop system of pipes buried in the earth commonly referred to as a loop field. The solution acts as a medium for heat transfer. These loops are heat fused at the joints and pressurized. (The loop field is what sets these systems apart from conventional heating and cooling equipment.)

GEOTHERMAL WELLS – means 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 – means 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 – means 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 – means one of the following mixtures used for grouting or plugging annulus or annular space created during a permitted activity:

Portland cement grout, with additives that must be pre-hydrated prior to mixing with cement; or

Neat Cement Grout – Portland cement without additives; or

Any other grouting material approved in writing by the DNR.

GROUTING OF WELLS – means the placement of grout 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 – means 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 – means a well designed and constructed for the purpose of pouring or pumping water, or some other liquid, into a ground water formation.

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

LEE COUNTY WELL CONSTRUCTION ADVISORY BOARD (also referred to as the Well Construction Advisory Board or Advisory Board) - means a volunteer board or committee whose members 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.

LOWER TAMiami AQUIFER – means 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 the DNR.

MONITORING WELL (also referred to as observation well) - means a well used for monitoring the quality of water, fluctuation of water levels, or other purposes concerning hydrologic conditions.

NEAT CEMENT GROUT – means 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 DNR and having maximum allowable 6 gallons of water per bag of Portland cement (a mixture consisting of water and Portland cement - American Concrete Institute Type I or American Concrete Institute Type III), or other approved types of cement and acceptable amounts of those additives approved for use in cement grouts by the permitting authority.

NON-ARTESIAN WELL OR WATER-TABLE WELL – means 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 – means any and all persons, including, but not limited to, any individual, firm, association, organization, partnership, business, trust, corporation, company or governmental agency.

PIEZOMETERS – means a device used to measure static liquid pressure in a system by measuring the height to which a column of the liquid rises against gravity, or a device which measures the pressure (more precisely, the piezometric head) of groundwater at a specific point.

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

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

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

RECOVERY WELL – means a well constructed for the purpose of allowing free-product hydrocarbons or other contaminants to be withdrawn from the groundwater.

RE-INSPECTION – means 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 – means any action which involves the physical alteration or replacement of any part of a well, acidizing, but does not include the alteration or replacement of any part of a wellhead, which must be maintained at a minimum of 12 inches above finished grade.

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

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

SFWMD – means the South Florida Water Management District.

SAND-POINT WELL – means 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 – means specific permit conditions included in the Well Construction Permit to insure compliance with intentions of this Ordinance or Chapter 40E-3, F.A.C.

SPECIALTY LICENSE – means Lee County contractor licenses issued specifically for the installation of geotechnical borings or elevator shafts.

TEST WELL, BORING, OR ELEVATOR SHAFT – means 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 – means 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.

UNDERGROUND FORMATION – means any subsurface stratum or strata, consolidated or unconsolidated, lying beneath the surface of the ground.

VIOLATION – means non-compliance with the requirements of this Ordinance, F.A.C. Chapters 40E-3, 62-532, 62-555 F.S., 64E-8, or §373.323 F.S.

WATER OR WATERS OF THE COUNTY – means 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 – means 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) – means any person actively engaged in the business of the construction, repair or abandonment of wells, with a valid State of Florida Water well contractor license.

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

WELL CONSTRUCTION ADVISORY BOARD (or Advisory Board) – See Lee County Well Construction Advisory Board.

WELL DEVELOPMENT – means 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 SIX: WELL USE CLASSIFICATIONS.

6.1 GENERAL.

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

6.2 WELL CLASSIFICATIONS AND TYPES.

- (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
- (16) Geothermal Holes
- (17) Cathodic protection wells

6.3 LAND USE CLASSIFICATIONS.

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

SECTION SEVEN: COMPLAINTS, MEDIATIONS, FORMAL HEARING PROCESS AND APPEALS.

7.1 WELL CONSTRUCTION ADVISORY BOARD.

This Ordinance hereby creates the Lee County Well Construction Advisory Board, also referred to as the Well Construction Advisory Board or Advisory Board.

The Advisory Board shall be composed of 5 members. The Advisory Board members with following qualifications appointed by resolution by the Lee County Board of County Commissioners and shall be comprised as follows:

Three licensed water well contractors actively engaged in well construction in Lee County and whose license is in good standing

One member from the Lee County Health Department, Environmental Engineering Division; and

One member from the South Florida Water Management District.

7.2.1 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 1 year with eligibility for re-election.

2. The presence of 4 or more members shall constitute a quorum of the Advisory Board necessary to take action and transact the business of the Advisory Board.
3. 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.
4. 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.
5. All meetings will be conducted in accordance with Robert's Rules of Order.
6. The Director of the DNR, or his 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.
7. Copies of all Advisory Board minutes, *resolutions*, reports and exhibits will be posted on the internet for review by the Lee County Board of County Commissioners and the general public.
8. All Advisory Board meetings shall be open to the public.
9. 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.).
10. Members of the Advisory Board shall serve without compensation.

7.3 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 has the authority to conduct hearings and make final determinations related to all matters arising from violation of any part of this ordinance.

2. 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 DNR on licensed applicants, content of licensing examination, quality of workmanship when a complaint is placed on a licensee, or well construction problems.
3. The Advisory Board shall recommend amendments to this Ordinance, and shall have all other duties as prescribed under this Ordinance or any amendments thereto.
4. The Advisory Board members will have equal voting rights on all issues before the Board.

7.4 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 6-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.

7.5 TERMS OF APPOINTMENT.

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

7.6 ADVISORY BOARD DISCIPLINARY HEARING PROCEDURES.

(See attached APPENDIX "B" for Disciplinary Action Procedures Flow Chart).

7.7 COMPLAINTS.

1. All complaints involving a violation of this ordinance are to be filed with the DNR. The DNR 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 DNR 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 the DNR may investigate an anonymous complaint if:
 - (a) It is in writing;
 - (b) It is legally sufficient;
 - (c) The alleged violation is substantial; and
 - (d) The DNR has reason to believe, after preliminary inquiry, that the violation alleged in the complaint is true.
4. Either the Advisory Board or the DNR 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.

7.8 INVESTIGATION.

1. The DNR must investigate all complaints that are in writing, signed by the complainant and found legally sufficient.
2. The DNR 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 DNR may conduct an investigation without notification to the subject Contractor if the DNR 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 DNR concerning the information contained in the complaint or document within 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.

7.9 MEDIATION.

1. After the initial investigation, DNR 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. DNR'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 5 working days after the meeting and become effective upon execution by all parties.

4. If the agreement is not executed within 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 DNR 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 3 times in any 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.

7.10 PROBABLY CAUSE DETERMINATION.

1. If, after the DNR 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 DNR will submit a request for Probable Cause Determination to the Advisory Board for formal process.
2. 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 DNR and must comply with the formalities of subsection 7.6.8 herein entitled "Written Documents".
3. A formal hearing date will be set within 30 calendar days of DNR's receipt of such request.
4. 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.

5. The Probable Cause Panel may request additional investigation if the Panel reasonably believes that additional information is necessary to make the probable cause determination.
6. If the Panel finds probable cause does exist, the DNR will file a formal complaint against the subject Contractor and set the date for hearing.
7. In lieu of a finding of probable cause, the Panel may issue a letter of guidance to the subject Contractor.

7.11 FORMAL HEARING PROCESS.

1. A formal hearing date will be set within 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 DNR in writing at least 14 calendar days before the hearing date and it must state the specific reasons for the request.
3. All parties must be given 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) 10 - 15 minutes for the primary presentation; and
 - (b) 5 - 10 minutes for rebuttal and/or questions of staff.
6. The order of presentation should be:
 - (a) Ground water unit supervisor from the DNR;
 - (b) Contractor, or his 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 DNR 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 and of 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 DNR.

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.

7.12 FINAL ORDERS.

1. Within 14 calendar days after the conclusion of the formal hearing, the DNR or the Lee 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 DNR 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 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. An order is final upon execution by the Advisory Board Chair.

7.13 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 Board of County Commissioners, within 10 calendar days after receipt of the final order. In the event the decision of the Advisory Board is contrary to that of the DNR, the Director of the DNR may, within 10 days appeal the decision to the Board of County Commissioners. All appeals shall be filed with the Director of the DNR.
2. Each appeal must be made by filing a written Notice of Appeal within 10 calendar days from the date of final order of the Advisory Board and by paying a non-refundable filing fee as set out in the External Fee Manual, payable to the "*Lee County Board of County Commissioners*". The written Notice of Appeal shall be filed with the Director of the DNR and shall contain appropriate reference to the decision or order and shall state specifically the grounds of appeal.
3. The Board of County Commissioners shall hear all appeals from the decision of the Advisory Board. The 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 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 DNR 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 30 calendar days after filing of the Notice of Appeal.

6. Appeals from decisions of the 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 30 days after rendition of the Lee County Board of County Commissioners' order to be reviewed.

7.14 WRITTEN DOCUMENTS; PETITIONS, PLEADINGS, REQUESTS 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-inch by 11-inch size white paper, printed 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;
 - (c) A concise statement of the ultimate facts alleged, including the specific facts the petitioner or Contractor contends warrant reversal or modification of the DNR's or Advisory Board's proposed action;
 - (d) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the DNR, Advisory Board or the Board of County Commissioners to take with respect to any proposed action;
 - (e) A petition shall not be heard or considered if it is not in substantial compliance with this section or it has been untimely filed;
 - (f) The DNR shall promptly give written notice to all parties of any action or the failure to take action on a petition.

SECTION EIGHT: LICENSING.

8.1 NEW CONTRACTOR OR RENEWAL LICENSURE REQUIREMENTS.

1. State Licensed Water Well Contractor

A completed "Lee County Contractor Information Sheet" showing:

- (a) Proof of a valid State Water Well Contractor License; and
- (b) Copy of valid driver's license (or State issued picture identification)

2. Lee County Specialty Contractor

(a) New Lee County Contractor Specialty License

- (1) A completed "Lee County Specialty License Application" form; and
- (2) Submit a copy of valid driver's license, or other State-issued photo identification; and
- (3) The required new License & Exam fee as set out in the External Fee Manual; and
- (4) Written proof of successfully passing a written specialty license exam; and
- (5) Written proof of successfully passing a field practical test given on your first permitted job.

(b) Renewal of your Lee County Contractor Specialty License

- (1) A completed "Lee County Specialty Drilling Contractor Information Sheet Update" form; and
- (2) Copy of valid driver's license (or State-issued photo identification); and
- (3) The required License Renewal fee as set out in the External Fee Manual.

8.2 LICENSE TYPES.

- 1. Water Well Contractor - A State of Florida Water well contractor license that entitles the holder to construct all classes of wells, as well as Test Borings and Elevator Shafts.
- 2. Geotechnical Boring Contractor - a Lee County specialty license to drill or direct push and properly abandon geotechnical borings.

3. Elevator Shaft Contractor - a Lee County specialty license to drill or repair elevator shafts.

8.3 LICENSE SUSPENSION OR REVOKATION.

Specialty contractors who repeatedly violate the provisions of this Ordinance may be denied the applications for permitting. In a 3-year period, Specialty Contractors who accumulate fines totaling more than \$3,000.00 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.

8.4 LICENSED CONTRACTOR RESPONSIBILITIES.

1. The contractor shall bear full responsibility for compliance with the provisions of this Ordinance, Chapters 40E-3 F.A.C. and 62-532 F.A.C., §373.323, F.S. 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 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. The Contractor shall be responsible and liable for work being performed or taking actions deemed necessary by DNR 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.
4. 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.
5. The Contractor shall be responsible for providing safe work site conditions for his/ her employees and the DNR staff to perform their duties.

6. 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.
7. The Contractor and his/her staff shall be responsible for cooperating with the DNR 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 DNR staff member performing his/her duty, or fail to obey the lawful order of DNR staff member.
8. All contractors performing work within Lee County shall be responsible supplying up to date licensing information to the DNR prior to obtaining any permits from the DNR.

SECTION NINE: PERMITS.

9.1 REQUIREMENTS FOR All PERMITS.

1. A valid permit issued by the DNR is required to drill, construct, repair, rehabilitate, plug, enlarge or deepen any well, geotechnical boring, or elevator shaft.
2. Prior to issuance of a permit to drill, direct push, construct, repair, rehabilitate, plug, enlarge or deepen any well, geotechnical boring, or elevator shaft, an application must be completed, signed by the Contractor, and or the property owner, and submitted with the required supporting documentation to the DNR. This includes the State of Florida Department of Transportation borings that are not hand augured and exceed 10 feet in depth. 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 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 & Light, or other utility companies, are also exempt from the provisions of this Ordinance.
3. The Contractor's license shall be current and in good standing from the time of permit application, and through completion 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 DNR will strive to review the application within 24 hours of application receipt (except weekends and holidays) to determine completeness.

4. 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 DNR will strive to issue the permit to the applicant within 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 supplied in writing on the application form and the applicant shall be notified according to SECTION EIGHT, LICENSING, herein.
5. 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. As a required permit condition; the Contractor must add the required subsurface and other final construction information to the permit at the time of completion.

9.2 CONDITIONS FOR ISSUANCE OF PERMITS.

1. Unauthorized or Unpermitted wells: Wells drilled without all require permits shall be required to have the casing milled out and be plugged by a State licensed Contractor at the contractor's expense, or at the property owner's expense (if the responsible Contractor cannot be identified), within 7 days of notification by the DNR. 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 TWELVE, DRILLING INSPECTORS AND INSPECTIONS, herein. 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 DNR 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 DNR 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 §381.0065(4)(a), F.S., or as that statute may be amended, replaced or renumbered.
10. **Pollution Prevention:** The Contractor is required to take all necessary measures as required by the NPDES program to prevent environmental pollution from well construction.

9.3 PERMIT FEE.

A fee shall be assessed for each permit as set forth in the External Fee Manual. 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.

9.4 RE-INSPECTION FEE.

There will be an assessed fee prior to each re-inspection made by the DNR. The re-inspection fees shall be those set forth in External Fee Manual. These fees can be waived at the discretion of the DNR provided such waivers can be justified.

9.5 SUBMISSION OF SUBSURFACE DATA.

1. Upon completion of installation of a well, the Contractor must provide the following information on the permit posted at the site and on the water container bottle left at the site for the DNR:
 - (a) Well casing diameter and depth;
 - (b) Total well depth
 - (c) Quantity and type of annular space grout utilized;
 - (d) Well yield during well development; and
 - (e) Quantity of grout used for well abandonment, if applicable;
2. State of Florida well completion reports shall be submitted within 30 days to the DNR after completion of any type of well construction.
3. Well construction information and sediment free clean water sample collected from the well water producing zone in an DNR supplied laboratory container shall be made available to the DNR44 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, COMPLAINTS, MEDIATIONS, FORMAL HEARING PROCESS AND APPEALS, herein, and shall be included with the completed log as required therein. The Contractor shall coordinate the submission of various samples and additional information with DNR 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.

9.6 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 no more than 50% of the cost of the original permit application fee for the first 30 days of issuance, the fee shall be reduced by an additional 10% for each month after issuance.

9.7 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 DNR 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.

9.8 DURATION OF PERMIT, EXTENSIONS.

1. A DNR permit is valid for 6 months from the date of issuance. Permits shall be void after 6 months from the date of issuance, unless the time limit has been extended by the DNR after a written application by the Contractor. A fee shall be assessed for each permit time extension request as set forth in the External Fee Manual.
2. Supplemental information may be required by the DNR prior to approval of a request for permit time extension. The DNR shall make a determination on applicant's written time extension request. No more than 2 time extensions totaling 6 months shall be approved for a given permit. Permits that have been closed by the DNR shall not be re-opened.

9.9 REPAIRED WELLS.

1. If an old well needs to be reconstructed to a greater depth within the same permitted aquifer, or if its diameter is changed within 6 months of being finalized, then no charge will be incurred, however if 6 months are exceeded a new permit must be obtained from the DNR specifying the work to be performed with a fee assessed.
2. Prior to well construction commencing the assigned well inspector will take a water quality sample as a baseline sample. Once the well has been deepened the well must be properly developed and a second water sample taken by the well inspector.
3. If the water quality degrades more than 500 parts per million total chlorides, the well contractor must either plug the well back to the previous depth well started or plug and abandon the whole well from bottom to top, as required by State code.

9.10 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; or
2. Intrusion of pollutants into the ground water supply of Lee County; or
3. Uncontrolled intermixing of ground water between aquifers or intra-aquifers; or
4. Endangering the public health, safety and welfare of the citizens within Lee County; or
5. Material misstatement or misrepresentation in the application.

9.11 NOTICE OF DENIAL.

The DNR 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 10 working days of the receipt of said notice.

9.12 SUSPENSION AND REVOCATION OF PERMIT.

1. A permit may be suspended by the DNR 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.
2. Upon receipt of said written notice, the Contractor and/or landowner shall, at the discretion of the DNR, rectify the violation or cease construction.
3. 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 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 Board of County Commissioners may revoke the permit if notice was properly received, at the end of the 10-day period without such a hearing.

4. All notices of suspensions or revocations or violations of permit conditions will be forwarded to the SFWMD.

9.13 IDENTIFICATION OF EQUIPMENT.

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

SECTION TEN: GEOTECHNICAL BORINGS AND PERMITS.

10.1 REQUIREMENTS FOR PERMIT.

1. A valid permit issued by the DNR is required to drill, direct push, auger, split spoon or construct any geotechnical boring deeper than 10 feet from land surface, other than by hand auger. Prior to issuance of a permit to drill, direct push, auger, split spoon or construct any geotechnical boring deeper than 10 feet from Land Surface, an application must be completed, signed by the Contractor, and submitted with the required supporting documentation to the DNR.
2. The Contractor's license shall be current and in good standing at the time of permit application, and at the commencement of construction of permitted activity.
3. A permit shall not be issued to a Contractor who is not capable of supervising the work being performed on site.
4. The DNR will strive to review the application within 24 hours of application receipt (except weekends and holidays) to determine completeness.
5. Upon determination of the completeness of the permit application, the DNR will strive to issue the permit to the applicant within 24 hours (except weekends and holidays) from the time of receipt of a complete permit application.
6. In the event a permit is denied, the reason(s) shall be supplied in writing on the application form and the applicant shall be notified according to SECTION EIGHT, LICENSING, herein.

7. 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.
8. The Contractor must add the required subsurface and other final construction information to the permit at the time of well completion.

10.2 CONDITIONS FOR ISSUANCE OF PERMITS.

1. **Unauthorized Borings:** Geotechnical Borings drilled without all required permits shall be plugged by the Contractor at the contractor's expense, or by a Licensed Contractor at the property owner's expense (if the responsible Contractor cannot be identified), within 7 days of notification by the DNR. An after-the-fact permit may be issued if the boring 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 permit had been issued.
3. **Construction Scheduling:** All drilling inspection scheduling, anticipated interruptions or cancellations shall be in accordance with SECTION TWELVE, DRILLING INSPECTORS AND INSPECTIONS, herein. 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 or abandonment of geotechnical borings 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. **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.
6. **Special Conditions:** In order to protect groundwater resources, the DNR may include specific conditions in the permit as required to address specific construction or drilling performance requirements.

7. Property Access: The property owner or the applicant, by obtaining of a geotechnical boring construction permit, specifically agrees to allow authorized DNR 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.
8. Pollution Prevention: The Contractor shall utilize all current acceptable Best Management Practices (BMP's) measures to prevent environmental pollution due to well construction.

10.3 PERMIT FEE.

A fee shall be assessed for each permit as set forth in the External Fee Manual, 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.

10.4 RE-INSPECTION FEE.

A fee may be assessed prior to each re-inspection made by the DNR. The re-inspection fees shall be those set forth in the External Fee Manual, as that Administrative Code may be amended, replaced, or renumbered. These fees may be waived at the discretion of the DNR provided such waivers can be justified.

10.5 SUBMISSION OF SUBSURFACE DATA.

1. Upon completion of installation of a geotechnical boring project, the Contractor must supply construction information on the permit posted on site for the DNR as follows:
 - (a) Number of total borings;
 - (b) Total depth for each boring; and
 - (c) Total quantity of grout used for all hole abandonments and well abandonments.
2. State of Florida well completion reports shall be submitted within 30 days to the DNR after completion of the well or geotechnical boring construction. 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 and shall be included with the completed log as required in SECTION ELEVEN, TEST WELL REQUIREMENTS, herein. The Contractor shall coordinate the submission of various samples and additional information with DNR 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.

10.6 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.

10.7 AUTHORITY GRANTED BY THE PERMIT.

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

1. A licensed water well or specialty licensed contractor constructs the boring;
2. The boring 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 DNR prior to construction; and
4. All persons constructing a boring shall comply with the applicable provisions of this Ordinance.

SECTION ELEVEN: TEST WELL REQUIREMENTS.

11.1 TEST WELLS.

1. A well construction permit application together with a Test Well Form shall be submitted for each proposed test well to be constructed.
2. Test wells are subject to the following conditions:
 - (a) Exploratory drilling under one permit shall be conducted on a single parcel of property for a single owner.
 - (b) Each and every test well shall be constructed, grouted, or plugged in accordance with this Ordinance and other State requirements.
 - (c) 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 the DNR and receive permit approval and submit a Water Use Permit application to SFWMD, as required, and receive permit approval.

11.2 TEST WELL APPLICATIONS.

1. Application must have a Test Well Form attached stating the purpose of test well(s) 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 DNR 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.

11.3 TEST WELL REPORTS.

Unless a time extension had been granted by DNR, reports of test well information, such as well logs, test pumping results, water quality, capacity, depths and sizes, shall be submitted, within 30-days of completion of well construction, to the DNR to be evaluated. Test well reports shall include all data obtained as described hereinafter.

11.4 TESTING PROCEDURE.

1. As noted above, complete logs shall be kept and filed with the DNR.
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 DNR.

SECTION TWELVE: DRILLING INSPECTORS AND INSPECTIONS.

12.1 INSPECTORS.

Upon completion of passing their probationary period inspectors will maintain a valid State of Florida Water Well Contractors License and have attended and passed the Lee County Code Enforcement officers training course along with 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.

12.2 INSPECTIONS, COORDINATION.

1. The DNR or appropriate state agency will conduct inspection of well construction, alterations, and plugging. The DNR representative or well inspector may assist and verify, but shall not be responsible for designating the location of a well to be constructed.
2. It is the Contractor's responsibility to advise the DNR 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. (See Rule 40E-3.461 F.A.C., Inspection.)
3. The District or delegated agency is authorized to inspect any well or abandoned well within its jurisdiction, including those wells permitted under Rule 40E-3.041, F.A.C. Inspections shall be done as necessary to insure conformity with applicable standards. Duly authorized representatives of the District or delegated agency, upon presenting proper identification and at reasonable times, may enter upon any premises for the purpose of such inspection. Such inspection may include but need not be limited to geophysical logging, water level measurements, or other methods.
4. If, based on such inspection, the District or delegated agency finds the standards of this chapter of the F.A.C. have not been met, the District or delegated agency shall proceed with enforcement actions as prescribed by Chapter 62-531, F.A.C.
5. A site inspection may be conducted by an authorized representative of the District or delegated agency prior to issuing a permit for construction of a public water supply well.
6. The District or delegated agency shall be notified at least 24 hours in advance of placement of grout in the annular space of any public water supply well. A District or delegated agency representative may be on site to observe the grouting. If the District or delegated agency is properly notified and a representative is not at the site at the appointed time, the grouting may begin in the absence of a representative.
7. If, based on an inspection, the District or delegated agency finds any well is an abandoned or incomplete well, the well shall be plugged in accordance with Rule 40E-3.531, F.A.C. If deemed appropriate by the DNR, the county may require that the well casing be milled out and the hole be properly plugged and abandoned.
8. If, based on an inspection, the District or delegated agency determines that applicable laws or rules have not been complied with, it shall disapprove the well. A disapproved well shall not be used until brought into compliance.

9. All private water system wells must be inspected and approved by the DNR prior to the issuance of a Certificate of Occupancy by the Lee County Building Department (or the appropriate municipality building department if being enforced in an incorporated area of Lee County). Should notification of specific stages of construction be necessary, it will be stipulated on the approved permit application.
10. Existing Domestic wells: Once located by either the DNR or the Land owner, if not found in the Lee County records, shall, at a minimum, be required to be inspected by a DNR 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. If conditions or requirements are not met for proper construction and setbacks, the existing well may be determined to need repaired or be properly abandoned by a Licensed State of Florida Water Well Contractor. Until such repairs or proper abandonment are performed by a Licensed State of Florida Water Well Contractor, the DNR will place a permitting hold on that parcel.
11. All drilling inspection scheduling, anticipated interruptions and cancellation shall be done in accordance with attached APPENDIX "A." Drilling or well construction after regular work hours is addressed in attached APPENDIX "A." An 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. An Emergency well construction inspection is exempt from the after-hour inspection fee. Mere carelessness or lack of planning on the part of the applicant, contractor or driller will not constitute sufficient cause for the issuance of an emergency permit. All scheduled inspections that are not cancelled according to APPENDIX "A," will be subject to a fine (Failure to schedule or cancel an activity). Excessive cancellations as described in attached APPENDIX "B" shall result in fines. The Contractor shall also be responsible for not scheduling a drilling activity that has been already completed and inspected.

12.3 PUBLIC WATER SUPPLY AND 64E-8 WELLS.

The DNR must be notified by the Contractor at least 24 hours prior to construction so that an inspector can be present. If proper notification is not given, the well construction could be halted or postponed for at least a 24-hour period.

12.4 UNFORSEEN 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 or required in order to maintain a safe working environment, the condition shall be reported to the DNR 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.

12.5 NON-COMPLIANCE.

If during construction, repair, abandonment, or plugging of a well, the authorized representative or inspector finds the work is not being performed in accordance with rules, regulations and standards of this Ordinance, or adopted by a regulatory agency pursuant to Chapter 373, F.S., the DNR 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 7 calendar days, or to pay a fine within 30 calendar days, or to act in accordance with the order after receipt of a verbal followed by a written notice shall be grounds for revocation of the permit or suspension of well construction privileges or permitting privileges.

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

12.7 RE-INSPECTIONS.

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

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

13.1 GENERAL SCOPE.

1. 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 DNR and included as part of this Ordinance in attached APPENDIX "A." 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.*

2. Only licensed State of Florida Water Well contractors are authorized to drill, construct, repair, rehabilitate, plug, enlarge, or deepen wells.

13.2 GEOTECHNICAL BORING AND ELEVATOR SHAFTS.

A Lee County specialty contractor license will only allow a contractor can to drill or direct push a geotechnical boring or elevator shaft.

13.3 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 American Water Works Association (“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.

13.4 CONSTRUCTION METHODS AND PROCEDURES - GENERALLY.

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.

13.5 CONSTRUCTION METHODS AND PROCEDURES – 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, which includes Cathodic protection wells, shall be constructed so that only one aquifer is utilized. If the DNR 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 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 or shale packer 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 FIVE, DEFINITIONS, herein, 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, Standard for Deep Wells and using approved materials and methods as defined in SECTION FIVE, DEFINITIONS, herein, 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. Grouting.
 - (a) 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 80 percent of annular space volume, if approved by the DNR staff, may be subjected to re-inspections.
 - (b) The Contractor accepts responsibility for repair or replacement of such a well, if the DNR determines repair or replacement of the well is necessary. If a loss circulation zone prevents proper grouting, 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.
 - (c) The bottom of tremie pipe shall be within 1 foot of the casing seal with exit notches or slits strictly within 3 feet from the seal allowing grouting to be discharged only within 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. Drilling activities must halt for a minimum of 12 hours after casing grout is completed.

- (d) Use of other types of pumps will be approved by the DNR 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, re-drill and stabilize the borehole, re-install the well casing and tremie pipe before grouting the annular space. Upon reviewing site specific conditions, the DNR 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 DNR inspection staff may authorize deviations from this requirement.
- 11. Unless otherwise permitted due to local topography, all wells shall be a minimum of 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, must 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 30 feet of casing unless a special exemption or variance is granted by the DNR.
- 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" (Intra-Aquifer Confining Unit – Restricted Area in Lehigh Acres and San Carlos Park, Irrigation Well Restricted Areas – Lower Tamiami Aquifer) and incorporated herein, shall be constructed to accommodate submersible pumps unless the well is 30 feet or less in depth.

16. In the vicinity of San Carlos Park, an intra-aquifer confining unit exists in the Water Table aquifer, typically occurring at approximately 30 to 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" shall be constructed in a manner to prevent intermixing of waters of different quality.
17. 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.
18. Following well construction, each well must 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 the DNR.
19. Lee County recommends that all new domestic water supply wells be disinfected following their construction, and after pump installation by a State of Florida licensed water well contractor or plumber, prior to being utilized for domestic water supply service.
20. Wells installed by property owners who are not State of Florida Water Well licensed contractors shall not exceed a depth of 30 feet below the land surface or the top of the regional confining unit, whichever occurs first.

13.6 TEST WELLS, GEOTECHNICAL BORINGS AND SHAFT HOLES.

1. Test wells whose purpose is obtaining exploratory or observational data shall conform to the specifications for regular wells within 12 months of construction. Such wells may be converted to permanent production or observation wells if constructed by a State of Florida Water Well Contractor and the well construction was approved by the DNR and the SFWMD has approved the proposed aquifer for use, when applicable. Water test wells not converted to permanent wells shall be plugged as specified by this Ordinance and other State requirements.

2. Geotechnical borings for the purpose of obtaining data for engineering studies, seismographic, geophysical or geological exploration or prospecting for minerals that exceed 10 feet in depth shall be plugged from bottom of the borehole to the land surface with an approved grouting material immediately upon completion of tests or borings. Borings not exceeding 10 feet in depth may utilize clean inert fill. The Contractor shall be responsible for the proper abandonment of such geotechnical borings.
3. Shaft holes for hydraulic lifts shall be double-cased with a minimum of 2 inches of grouting material in annular spaces outside and between casing strings. The shaft hole shall be grouted a minimum of 5 feet below the bottom of the inner casing.
4. Boreholes that exceed ten feet in depth 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 abandonment of boreholes before leaving the site.

13.7 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 immediately use temporary measures 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 DNR's intent to plug the abandoned artesian or a non-flowing well. Notice shall be once each week for 4 consecutive weeks.
2. Once so notified, the property owner shall submit to the DNR within 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 90 days of notification by DNR.
4. If geophysical logs or a well completion report are not available or cannot be provided to the DNR, the owner shall have 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 90 days, duly authorized representatives of the DNR 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 30 feet in depth and the homeowner shall obtain a well abandonment permit from DNR prior to plugging a the well. The homeowner must abandon the well in compliance with the provisions in SECTION 13, CONSTRUCTION OF WELLS, BORINGS AND SHAFT HOLES, herein.

13.8 PLUGGING OF EXISTING WELLS.

Generally, 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 FIVE, DEFINITIONS, herein and pumped into the well through appropriate sized tubing inserted in the well, and work done in accordance with the requirements of the DNR 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 DNR and the SFWMD.

13.9 PERMITS.

1. Prior to plugging any well, a permit must be obtained from the DNR.
2. The Contractor shall be familiar and shall comply with applicable provisions of Chapter 373, F.S., 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 DNR at least 24 hours prior to the start of the plugging operation so that a DNR inspector may be present during plugging operation.
5. After completion of plugging a well, the required completion report shall be promptly filed with the DNR. 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.

13.10 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 2 weeks following completion of installation of the replacement well. The DNR 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 DNR inspection staff may authorize deviations from this requirement.

13.11 REPAIR OR REPLACEMENT OF WELLS.

All work involving repair or replacement of wells shall be performed by a licensed State of Florida Water Well 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 DNR for review as necessary. The Contractor shall adhere precisely to the special application as approved, amended or disapproved.

13.12 GEOTHERMAL CLOSED LOOP HOLES

Multiple holes constructed for the purposes of heat exchange in the earth, Closed Looped piping is installed in the predrilled holes to exchange heat for cooling in the summer and heating in the winter. Holes may not exceed the Water-Table Aquifer, and must be filled with clean, inert fill. The open hole or any installed pipe may not exceed the first confining unit below the Water Table aquifer.

SECTION FOURTEEN: SUPPLEMENTAL REGULATIONS.

14.1 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.

14.2 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 FIFTEEN: ENFORCEMENT ACTIONS.

15.1 PENALTIES.

Any person, including a property owner or a licensed contractor, who violates any section of this Ordinance shall be punished in accordance with the Lee County Well Code Contractor's Disciplinary Guidelines contained in attached 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.

15.2 CITATION PROCEDURE FOR UNLICENSED CONTRACTORS.

1. Applicability:

The DNR Well inspectors are authorized to enforce the provisions of this ordinance against licensed and unlicensed Boring and Elevator Shaft contractors doing business in the incorporated municipalities of the City of Bonita Springs, City of Ft. Myers, City of Sanibel, Village of Estero, and any other incorporated municipality within Lee County under the terms of a duly executed interlocal agreement, along with the unincorporated areas of Lee County in accordance with the procedures set forth below.

2. Citation Procedure

- (a) A code enforcement officer/Well Inspector may issue a citation against a licensed or unlicensed Contractor for any violation of this ordinance, whenever, based upon personal investigation, the code enforcement officer has reasonable and probable grounds to believe that a violation has occurred.
- (b) The code enforcement officer does not have to provide the person with time to correct the violation prior to issuing a citation.
- (c) A citation must be in a form prescribed by the DNR and contain:
 - 1. The date and time of issuance.
 - 2. The name and address of the person to whom the citation is issued.
 - 3. The date and time the civil infraction was committed.
 - 4. The facts constituting probable cause.
 - 5. The number or section of the code or ordinance violated.
 - 6. The name and authority of the code enforcement officer.
 - 7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - 8. The applicable civil penalty if the person elects to contest the citation.
 - 9. The applicable civil penalty if the person elects not to contest the citation.
 - 10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he will be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (d) The act for which the citation is issued must cease upon receipt of the citation.

- (e) Each day violation continues constitutes a separate and citable offense under this ordinance. Therefore, if appropriate, a code enforcement officer may issue successive Citations.
- (f) After issuing a citation to the alleged violator, the code enforcement officer must deposit the original citation and one copy of the citation with the county court.
- (g) A schedule of penalties to be assessed by the code enforcement officer is set out in the Lee County Administrative code. The maximum civil penalty that can be assessed is \$500.
- (h) Any person who willfully refuses to sign and accept a citation issued by a Code Enforcement Officer r will be guilty of a misdemeanor of the second degree as provided in §§775.082 or 775.083, F.S.
- (i) Any Lee County well inspector/ code enforcement officer has the ability to stop any and all unpermitted and unlicensed Well drilling, Test Boring and Elevator activities. If a stop work order has been issued and the work continues, the inspector may request the Lee County Sherriff's department be deployed for assistance to stop all unlicensed/unpermitted activities.

15.3 USE OF FUNDS COLLECTED.

Any funds collected in accordance with this section will be retained by the DNR to support future code enforcement activities.

SECTION SIXTEEN: APPENDICES.

Appendices A and B are attached hereto are hereby incorporated by reference into this Ordinance as though fully set forth herein.

SECTION SEVENTEEN: 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 EIGHTEEN: 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 NINETEEN: 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 re-lettered and the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intensions and regardless of whether such inclusion in the Code is accomplished.

SECTION TWENTY: SCRIVENER'S ERRORS.

The Board of County Commissioners intends that this Ordinance can be renumbered or re-lettered 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 by filing a corrected or re-codified copy of same with the Clerk of the Circuit Court

SECTION TWENTY-ONE: 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.

SECTION TWENTY-TWO: MODIFICATION.

It is the intent of the Board that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications will be incorporated into the final version of this Ordinance.

[End of provisions.]

THE FOREGOING ORDINANCE was offered by Commissioner _____,
who moved its adoption. The motion was seconded by Commissioner _____,
The vote was as follows:

John E. Manning _____
Cecil L Pendergrass _____
Larry Kiker _____
Brian Hamman _____
Franklin B. Mann _____

DULY ADOPTED this ____ day of _____, 2016.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF COUNTY
COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Franklin B. Mann, Chair

Approved as to form for the
reliance of Lee County only:

Lee County Attorney's Office

Attachments: Exhibit "A" (Intra-Aquifer Confining Unit – Restricted Area in Lehigh Acres
and San Carlos Park, Irrigation Well Restricted Areas – Lower
Tamiami Aquifer)
APPENDIX "A" – Lee County Well Code Procedures Manual
APPENDIX "B" - Well Contractor's Disciplinary Guidelines