

AN ORDINANCE RESCINDING AND REPLACING
ORDINANCE 399 AND 525 MORE COMMONLY KNOWN AS
CHAPTER 13.16 ENTITLED "WELLS", WITH
CHAPTER 13.16 ENTITLED "WELL ORDINANCE"

WHEREAS, in 1990 the State Regional Water Quality Control Board imposed a State Model Well Ordinance on all counties, and

WHEREAS, the Well Ordinance committee held initial discussions with all interested parties, including well drillers, a year ago, and

WHEREAS, staff of the Mariposa County Health Department drafted a proposed "Well Ordinance" based on the State Model and circulated it for input from all interested parties;

NOW THEREFORE, the Board of Supervisors of Mariposa County, a political subdivision of the State of California does ordain as follows:

SECTION I: Chapter 13.16 entitled "Wells" is rescinded and replaced in its entirety by Chapter 13.16 entitled "Well Ordinance" to read in its entirety as follows:

"Chapter 13.16

WELL ORDINANCE

Sections:

- 13.16.010 Intent of ordinance.
- 13.16.020 Definitions and interpretation.
- 13.16.030 Well standards.
- 13.16.040 Permits--Required.
- 13.16.050 Permit--Penalty for failure to obtain.
- 13.16.060 Permit--Conditions.
- 13.16.070 Permit--Suspension and revocation.
- 13.16.080 Filing fees.
- 13.16.090 Required setbacks.
- 13.16.100 Well driller's report.
- 13.16.110 Emergency repairs.
- 13.16.120 Right of entry and inspection.
- 13.16.130 Inspections.
- 13.16.140 Waiver of inspections.
- 13.16.150 Confidentiality of report.
- 13.16.160 Other agency's requirements.
- 13.16.170 Abatement of abandoned wells.
- 13.16.180 Reports to the regional board.
- 13.16.190 Civil enforcement.
- 13.16.200 Appeals.

- 13.16.210 Appeal--Action by the board.
- 13.16.220 Severability.
- 13.16.230 Violation--Penalty.

13.16.010 Intent of ordinance.

It is the purpose of this Well Ordinance to protect the health, safety, and general welfare of the people of the State of California by ensuring that the ground waters of this state will not be polluted or contaminated. To this end, minimum requirements are contained in this Well Ordinance for construction, reconstruction, repair, and destruction of water wells, cathodic protection wells, and monitoring wells.

13.16.020 Definitions and interpretation.

A. As defined in other documents: Except as otherwise required by the context of this Well Ordinance, words and phrases shall have the same meaning as in Chapter 10 of Division 7 of the California Water Code, and the Department of Water Resources Bulletin 74-81, and subsequent supplements or revisions.

B. "Board" shall mean the Mariposa County Board of Supervisors.

C. "Enforcement Agency" shall mean the Mariposa County Health Department.

D. "Person" shall mean any person, firm corporation or governmental agency, to the extent authorized by law.

E. "Well" or "Water Well" shall be defined as contained in The California Water Code, Section 13710 which defines "well" or "water well" to mean "...any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground." The State Water Resources Control Board does not intend that potholes, drainage trenches or canals, waste waterponds, shallow root zone piezometers, stock ponds, or similar excavations be included within the definition of wells.

F. Tense or Gender: Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural, and the plural the singular.

G. Section headings: When contained in this Well Ordinance, shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section.

13.16.030 Well standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells shall be as set forth in:

A. Department of Water Resources Bulletin 74-81: The California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California"

except as modified by subsequent revisions.

B. All subsequent supplements and revisions: All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearing.

C. Variances: The health officer shall have the power under the following specified conditions to grant a variance from any provision of the Standards referenced above and to prescribe alternative requirements in their place.

1. **Special circumstances:** There must be, in a specific case, a special circumstance where practical difficulties or unnecessary hardship would result from the strict interpretation and enforcement of any Standard.

2. **Intent of Well Ordinance not compromised:** The granting of such a variance is consistent with the purpose of this Well Ordinance.

D. Special ground water protection: The health department may designate areas where ground water quality problems are known to exist and where a well will penetrate more than one aquifer. The health department may require in these designated areas special well seal(s) to prevent mixing of water from several aquifers. Where an applicant proposes well construction, reconstruction, or destruction work in such an area, the health department may require the applicant to provide a report prepared by a registered geologist or registered civil engineer (California Business and Professions Code Section 7850 and 6762 respectively) that identifies all strata containing poor quality water and recommends the location and specifications of the seal or seals needed to prevent the entrance of poor quality water or its migration into other aquifers.

E. Surface seal: A surface seal shall be constructed in the form of a concrete pad surrounding the well. The minimum distance from the well casing to any edge of the pad shall be twelve (12) inches. This surface seal must be in place at the time of the final inspection of the water system.

13.16.040 Permits--Required.

Prior to drilling, digging, boring, deepening, or otherwise constructing, reconstructing or destroying any well, the property owner, his/her authorized agent, or the well contractor shall secure a permit from the county health department; said permit shall be issued in accordance with regulations developed by the county health department. Application shall be made on the form provided and shall include a plot plan in the form required by the county health department regulations. Applications shall be accompanied by the required filing fee. Emergency repairs, as described in Section

13.16.110 of this Well Ordinance, may be performed without first applying for a permit; however, the permit application form must be filled out completely no later than the end of the health department working day on the last day of the week following the performance of the emergency repairs.

13.16.050 Permit--Penalty for failure to obtain.

Any person who shall commence any work for which a permit is required by this Well Ordinance without having obtained a permit shall be required, if subsequently granted a permit for this work, to pay double the standard permit fee.

13.16.060 Permit--Conditions.

A. **Limitations:** When the health department issues a permit pursuant to this Well Ordinance, it may condition the permit in any manner necessary to carry out the purposes of this Well Ordinance. Conditions may include, but are not limited to such quantity and quality testing methods as the health department finds necessary.

B. **Performance bond:** The health department may require a performance bond as a condition to the permit.

C. **Persons permitted to work on wells:** All construction, reconstruction, or destruction work on wells shall be performed by a person who possesses an active C-57 contractor's license in accordance with the provisions of the California Business and Professions Code, Section 7000, et seq. and California Water Code Section 13750.5.

D. **Abandoned wells:** As a condition of a construction or reconstruction permit, any abandoned wells on the property shall be destroyed in accordance with standards provided in this Well Ordinance.

E. **Posting of permit:** It shall be the responsibility of the contractor to maintain a copy of the permit on the drilling site during all stages of construction or destruction.

F. **Permit - denial:** The health department shall deny an application for a permit if, in its judgment, issuance of a permit is not in the public interest.

G. **Permit - expiration:** The permittee shall complete the work authorized by the permit within the time and before the date set out in the permit. If there have been exceptional circumstances, the health department may grant the applicant an extension. Upon the expiration of the permit, no further work shall be done unless and until the applicant has received an extension or a new permit.

13.16.070 Permit--Suspension and revocation.

A. **Circumstances for such action:** The health department may suspend or revoke any permit issued

pursuant to this Well Ordinance, whenever it finds that the permittee has violated any of the provisions of this Well Ordinance, or has misrepresented any material fact in his application, or any supporting documents, for such a permit. Prior to ordering any such suspension or revocation, the health department shall give the permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be before the health officer or his designated representative. An appeal may be made as set forth below in Section 13.16.200 of this Well Ordinance.

B. Consequences: No person whose permit has been suspended or revoked shall continue to perform the work for which the permit was granted until, in the case of suspension, such permit has been reinstated by the health department.

C. Ordered additional work: Upon suspending or revoking any permit, the health department may order the permittee to perform any work reasonably necessary to protect the underground waters from pollution or contamination, if any work already done by the permittee has left a well in such condition as to constitute a hazard to the quality of the underground waters. No permittee or person who has held any permit issued pursuant to the Well Ordinance shall fail to comply with any such order.

13.16.080 Filing fees.

Filing fees may be set by the board from time to time by resolution.

13.16.090 Required setbacks.

As outlined in Department of Water Resources Bulletin 74-81 and/or subsequent revisions and the Mariposa County Health Department Rules and Regulations.

13.16.100 Well driller's report.

Any person who has drilled, dug, bored, deepened or destroyed a well shall, within thirty (30) calendar days after completion of the work, furnish the health officer with a complete log of the well i.e., Report of Completion (Water Well Driller's Report, Department of Water Resources Form 188) as required by California Water Code Section 13751. The log shall contain the following information:

- a. A description of the strata encountered;
- b. The depth of the well;
- c. Depth of the first water encountered and the depth of the water level after development of the well;
- d. Depth of casing or casings including type and location of perforations;
- e. Depth of annular seal; material used to provide seal and method used in placement of the sealing material;

f. A statement that the well was disinfected after drilling;

g. In the case of a well destruction, the material used to destroy the well.

This section shall not be deemed to release any person from the requirement to file said report within the State Department of Water Resources.

13.16.110 Emergency repairs.

When emergency repairs include the construction of a new well or deepening of an existing deep well, a copy of the log of the well will be required as in Section 13.16.100 of this Well Ordinance. In such cases, the person responsible for the emergency work shall:

A. **Urgency:** Satisfy the health department that such work was urgently necessary; conditions which constitute such urgency shall be established by the health officer.

B. **Conformation with standards:** Demonstrate that all work performed was in conformance with the technical standards as designated in Section 13.16.130 of this Well Ordinance to the satisfaction of the health department.

13.16.120 Right of entry and inspection.

Representatives of the health department shall have the right to enter upon any premises at all reasonable times to make inspections and tests for the purpose of such enforcement and administration. If any such premises are occupied, he shall first present proper credentials and demand entry. If the same is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of same and demand entry. If such entry is refused, he shall have recourse to such remedies as are provided by law to secure entry.

13.16.130 Inspections.

The health department shall make an inspection of the annular seal construction work. It may make an initial inspection of each proposed drilling site, an inspection at the completion of the work, and inspections at such other times as it deems appropriate.

A. **Initial inspection:** Upon receipt of an application, the health department may make an inspection of the drilling site prior to the issuance of a well permit. The purpose of this inspection is to determine whether there are any site conditions such that the health department shall do the following:

1. **Relocation of drilling site:** Require relocation of the drilling site should the location shown on the permit application be too close to potential sources of pollution.

2. **Additional conditions:** Set additional

conditions if needed to remediate any previously unknown ground water quality protection problems.

B. **Inspection of well seal:** The health department shall inspect the annular space grout depth prior to the sealing.

1. **Required notice:** The health department shall be notified by the well driller a minimum of twenty-four (24) hours prior to sealing the annular space. Drillers who anticipate completing a well in less than one (1) day shall notify the health department twenty-four (24) hours prior to commencement of drilling and provide the anticipated time to commence the sealing of the annular space.

2. **Should health department fail to be present:** If the health department wishes to allow a seal to be tremied or placed without inspection, the driller shall seal the well in accordance with the standards of this Well Ordinance and any permit conditions. No seal shall be tremied or placed until the health department has been notified of the time and location of the sealing per Section 13.16.130(B)(1) and that time has expired.

C. **Final inspection:** If requested by the health department, the driller shall notify the health department within seven (7) days of the completion of their work at each drilling site. The health department may make a final inspection after completion of the work to determine whether the well was completed in accordance with this Well Ordinance.

13.16.140 Waiver of inspections.

The health department may waive inspections should any of the following conditions exist:

A. **Well inspected by other agencies:** Inspections may be waived where the work will be inspected by the staff of the California Regional Water Quality Control Board or the California Department of Health Services if these designated agencies will inspect and report to the health department on all drilling features required by the Standards.

B. **Monitoring wells under specified conditions:** Inspections may be waived for monitoring wells that will penetrate only aquifers containing degraded waters or will penetrate only formations that normally contain no water.

C. **Drilling sites known to have no threats to ground water quality:** Initial inspections may be waived when the drilling site is well known to the health department staff and it is known that no significant threats to ground water quality exist in the area.

13.16.150 Confidentiality of report.

In accordance with California Water Code Section 13752, reports shall not be made available for inspec-

tion by the public but shall be made available for inspection by governmental agencies for use in making studies. Reports shall be made available to any person who obtains written authorization from the owner of the well.

13.16.160 Other agency's requirements.

Nothing in this Well Ordinance shall be deemed to excuse any person from compliance with the provisions of California Water Code Section 13750 through 13755 relating to notices and reports of completion or any other Federal, State, or local reporting regulations.

13.16.170 Abatement of abandoned wells.

All persons owning an abandoned well as defined in Section 13.16.030 Well Standards of this Well Ordinance, and Department of Water Resources Bulletin 74-81 et seq., shall destroy it before December 31, 1991 except those excluded by California Health and Safety Code Section 24440.

13.16.180 Reports to the regional board.

Pursuant to California Water Code Section 13225(c), the health department shall submit a report, not less than annually, to the California Regional Water Quality Control Board(s) having jurisdiction in their area. This report shall contain the following data, unless the Regional Board determines a lesser amount of information is necessary:

A. Wells constructed or destroyed: The number of wells constructed or destroyed.

B. Abatement actions: Descriptions of all well destructions undertaken by the health department using its regulatory authority under nuisance abatement powers.

C. Variance granted: A description of each specific case where variances were granted and the circumstances that made a variance necessary.

D. Inspection waivers granted: A description of each specific case where an inspection was waived and the circumstances that made the waiver necessary.

13.16.190 Civil enforcement.

Civil action - notice of violation recordation: Whenever the health department determines that a well (a) has not been completed in accordance with a well permit or the plans and specification relating thereto, (b) has been constructed without the required permit, or (c) an abandoned well has not been destroyed in accordance with the standards, the health department may record a notice of violation with the office of the county recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if

their address is available.

If the property owner(s) or authorized agent disagree(s) with the determination, he may submit evidence to the health department indicating that there is no violation and then shall have a right to appeal an adverse decision of the health department to the board in accordance with the provisions of Section 13.16.210 below.

13.16.200 Appeals.

A. **Right of hearing:** Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended conditionally, or whose permit has been suspended or revoked, or whose variance request has been denied, may appeal to the Board, in writing, within ten (10) days after any such denial, conditional granting, suspension, or revocation. Such appeal shall specify the grounds upon which it is taken, and shall be accompanied by a filing fee as set forth herein. The clerk of the board shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and the health department, in writing, of the time so set at least five (5) days prior to the hearing.

B. **Action by the board:** After such hearing, the board may reverse, wholly or partly, or may modify the order or determination appealed from.

13.16.210 Appeal--Action by the board.

A. **Date of hearing:** Upon receipt of the notice of appeal, the board shall, within fifteen (15) days following the filing of the appeal, set a date for public hearing thereon.

B. **Evidence:** The evidence before the board shall consist of the records in the health department's files and any other relevant evidence which, in the judgment of the board, should be considered to effectuate and implement the policies of this Well Ordinance.

C. **Decision by board:** The board may reverse or affirm, wholly or in part, or modify the decision or the notice of violation and may make such order as should be made. Such action shall be final.

D. **Removal of violation notice:** The health department shall submit a removal of notice of violation to the county recorder when (a) it is determined by the health department or the board, after review, that no violation of this Well Ordinance exists; or (b) all required and corrective work has been completed and approved by the health department.

E. **Civil enforcement - nuisance:** Violations of this Well Ordinance may also be redressed in the manner hereinafter set forth by civil action. In addition to being subject to prosecution, any person who violates any of the provisions of this Well Ordinance may be made the subject of a civil action. Appropriate civil

action includes, but is not limited to, injunctive relief and cost recovery.

F. **Remedies cumulative:** The remedies available to the board to enforce this Well Ordinance are in addition to any other remedies available under ordinance or statutes, and do not replace or supplant any other remedy but are cumulative thereto.

13.16.220 Severability.

If any section, subsection, paragraph, sentence, clause, or phase of this Well Ordinance is for any reason held to be invalid, or unconstitutional by a decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Well Ordinance, including any other section, subsection, sentence, clause, or phase therein.

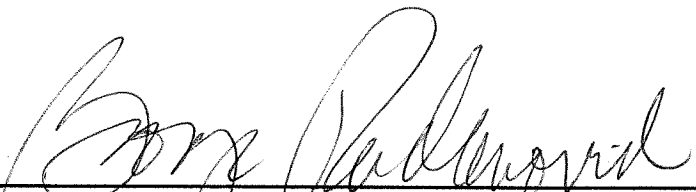
13.16.230 Violation--Misdemeanor.

Any person who violates any of the provisions of this Well Ordinance is guilty of a misdemeanor, and upon conviction thereof is punishable by such penalties as prescribed in Chapter 1.20 of the general penalty provisions of this code."

SECTION II: This ordinance shall become effective thirty (30) days from date of final adoption pursuant to California Government Code Section 25123.

Passed and adopted by the Mariposa County Board of Supervisors this 21st day of May, 1991 by the following vote:


AYES: BAGGETT, PUNTE, ERICKSON, RADANOVICH, TABER
NOES: NONE
ABSENT: NONE
ABSTAINED: NONE



GEORGE P. RADANOVICH, Chairman
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



MARGIE WILLIAMS
Clerk of the Board



JEFFREY G. GREEN
County Counsel