

ORDINANCE NO. 2013-16

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 16.06 OF THE SANTA CRUZ MUNICIPAL CODE PERTAINING TO WATER WELLS

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

SECTION 1: Chapter 16.06 of the Santa Cruz Municipal Code is hereby amended to read as follows:

“Chapter 16.06

Regulation of Water Wells

- 16.06.010 Purpose.
- 16.06.020 Definitions.
- 16.06.030 Permit Required.
- 16.06.040 Well Standards.
- 16.06.050 Variances.
- 16.06.060 Persons Permitted to Work on Wells.
- 16.06.070 Inspections.
- 16.06.080 Completion Reports.
- 16.06.090 Investigation.
- 16.06.100 Abatement.
- 16.06.110 Right of Appeal.

16.06.010 PURPOSE

The purpose of this chapter is to regulate the construction, repair and reconstruction of all wells, including cathodic protection wells, test wells, and excluding monitoring wells to the end that the groundwater of this city will not be polluted or contaminated; that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this city. It is also the purpose of this chapter to ensure that well water not be transported or used other than for reasonable beneficial use; and that abandoned wells found to be public nuisances be abated and destroyed.

16.06.020 DEFINITIONS

Except as otherwise required by the context of this chapter, the terms used in this ordinance shall have the same meaning as in Chapter 10 of Division 7 of the California Water Code and the Department of Water Resources Bulletins 74-81 and 74-90 and subsequent supplements or revisions. For the purpose of this chapter, the following words shall have the meanings set forth below:

- (a) “Abandoned well” means any well whose original purpose and use has been permanently discontinued or which is in such a state of disrepair that it cannot be used for its original purpose. A well is considered abandoned when it has not been used for a period of one year, unless the owner demonstrates his intent to use the well again for supplying water or other associated purposes and the well is capable of being made operational with minimal effort.

ORDINANCE NO. 2013-16

(b) “Abatement” means the construction, reconstruction, repair or destruction of a well so as to eliminate a nuisance caused by a well polluting or contaminating groundwater or contaminating the City water system.

(c) “Agricultural wells” means water wells used to supply water for irrigation or other agricultural purposes, including so-called “stock wells.”

(d) “Cathodic protection well” means any artificial excavation in excess of 50 feet constructed by any method for the purpose of installing equipment or devices to minimize electrolytic corrosion of metallic pipelines, tanks and other facilities in contact with the ground, commonly referred to as cathodic protection.

(e) “Commercial wells” means water wells used to supply a commercial or industrial business for use on an individual basis.

(f) “Community water supply well” means a water well used to supply water for domestic purposes in systems subject to Chapter 7 of Part 1 of Division 5 of the California Health and Safety Code (commencing with Section 4010).

(g) “Contamination” means an impairment of the quality of water to a degree which creates a hazard to the public health through poisoning or through spreading of disease.

(h) “Individual domestic well” means a water well used to supply water for the domestic needs of an individual residence or systems of four or less service connections.

(i) “Monitoring well” means any site mitigation well including those installed for the purposes of investigation or remediation of soil or groundwater contamination: groundwater monitoring wells, groundwater extraction wells, remediation wells, vadose-zone wells, airsparge wells, soil-vapor-extraction wells, and all other subsurface drill holes or direct-push borings that will remain in the ground for more than 24 hours, and are regulated by another responsible regulatory authority. When a monitoring well has received the necessary approval from the responsible regulatory authority, it may be installed within the City.

(j) “Order of abatement” means both mandatory and prohibitory orders requiring or prohibiting one or more acts; said term shall also include those orders effective for a limited as well as an indefinite period of time, and shall include modifications or restatements of any order.

(k) “Person” means any person, firm, corporation or governmental agency.

(l) “Pollution” means an alteration of the quality of water to a degree which unreasonably affects:

- (1) Such waters for beneficial uses; or
- (2) Facilities which serve such beneficial uses. Pollution may include contamination.

(m) “Regulated well” means a well that is to be used for domestic, municipal, commercial, or irrigation water supply. A “Test well” shall also be considered a “Regulated well”.

(n) “Test well” means a well constructed for the purpose of obtaining information needed to design a well prior to its construction. Test wells are cased and can be converted to observation or monitoring wells and, under certain circumstances, to production wells.

(o) “Water Director” means the Water Director of the City of Santa Cruz or the Water Director’s authorized representative.

(p) “Well” or “water well” means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. “Well” or “water well” shall not include:

- (1) Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells;
- (2) Wells used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments; or
- (3) Individual wells not exceeding twenty feet in depth and used solely for irrigation, stock watering, or other agricultural purposes.

16.06.030 PERMIT REQUIRED

(a) When Required. No person shall, within the city, construct, repair, reconstruct or destroy a regulated well unless a written permit has first been obtained from the Water Director as provided in this chapter, and the work conforms to the conditions of such permit and this chapter.

(b) Application Procedure. Applications for such permits shall be made on the forms provided for that purpose and in accordance with procedures established by the Water Director.

(c) Filing Fee. Each such application shall be accompanied by a filing fee set by resolution of the City Council. No part of the fee shall be refundable.

(d) Permit Conditions.

(1) When the City issues a permit pursuant to this ordinance, it may condition the permit in any manner necessary to carry out the purpose of this ordinance. Conditions may include, but are not limited to such quantity and quality testing methods as the City finds necessary.

(2) The permit shall contain a clause requiring the safe and appropriate handling and disposal of drilling fluids and other drilling materials used in connection with the permitted work.

ORDINANCE NO. 2013-16

(3) As a condition of a construction or reconstruction permit, any abandoned wells on the property shall be destroyed in accordance with the standards provided in this chapter.

(4) The City may require the discharge pipe of a new water well to be equipped with a water meter capable of accurately measuring the volume of water extracted from the ground through the well.

(5) It shall be the responsibility of the permittee to maintain a copy of this permit on the drilling site during all stages of construction or destruction.

(e) Permit Denial. A permit shall not be issued if, in the judgment of the Water Director, based upon written findings, the proposed well does not conform to the standards provided in this chapter or the well may jeopardize the public health, safety or welfare.

(f) Expiration. Each permit issued pursuant to this chapter shall expire and become null and void if the work authorized thereby has not been completed within the time period specified on the permit. Upon the expiration of the permit, no further work shall be done in connection with construction, repair, reconstruction or abandonment of a well unless and until the applicant has received an extension or a new permit.

(g) Revocation.

(1) A permit issued hereunder may be revoked by the Water Director as hereinafter provided if he determines that a violation of this chapter or a violation of the permit conditions exists, that written notice has been directed to permittee specifying the violation, and that the permittee has failed or neglected to make the necessary adjustments within thirty days after receiving such notice.

(2) A permit may be so revoked by the Water Director if he determines at a hearing for such purpose that the person to whom any permit was issued pursuant to this chapter has obtained the same by fraud or misrepresentation, provided that notice of the time and place of such hearing is given to the permittee at least five days prior thereto.

(3) The revocation of any permit shall not be effective until notice thereof in writing is mailed to the permittee, and the time for filing an appeal to the City Council has expired. The notice shall advise the permittee of his right to appeal to the City Council and that all work related to the permit must be suspended immediately.

(h) Appeal. Any person whose application for a permit has been denied or whose permit once issued has been revoked, may, within ten days following the receipt of the notice of such denial or revocation, file an appeal pursuant to Chapter 1.16 of this code.

16.06.040 WELL STANDARDS

Standards for the construction, repair, reconstruction or destruction of wells shall be as set forth in The California Department of Water Resources Bulletin No. 74-81, "Water Well Standards, State of California," and Bulletin No. 74-90, "California Well Standards," except as subsequently revised or supplemented, which are hereby incorporated by reference, with the following additions:

ORDINANCE NO. 2013-16

(a) Setback. No well, except for monitoring wells or cathodic protection wells, shall be constructed within fifty feet from the property line of the property owner to whom a permit is issued for construction of the well, or within a five-hundred-foot radial distance from any existing well.

(b) Connection to Public Water Supply Prohibited. No pipe or other connection shall be made or permitted between water well sources and the public water supply provided by the City Water Department to assure that the use of well water shall remain independent from any other water supply. Any property with a water well, except monitoring wells or cathodic protection wells, which is also served from the City water system shall install an appropriate backflow prevention device in accordance with Section 16.04.420 of this code.

(c) Sale or Export. No person shall be permitted to sell, transport or export water from the overlying property to which the permit was issued for water well construction to assure that the use of well water shall only reasonably benefit the overlying land.

16.06.050 VARIANCES

The Water Director shall have the power to grant variances from the standards referenced above so as to prevent unnecessary hardship or injustice and at the same time accomplish the general purpose and intent of the standards. For a variance to be granted, 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.

16.06.060 PERSONS PERMITTED TO WORK ON WELLS

All construction, reconstruction, repair, or destruction work on wells shall be performed only by a person who possesses an active C-57 Water Well Contractor's License in accordance with the provisions of the California Business and Professions Code, Section 7000, et. seq. and Water Code Section 13750.5.

16.06.070 INSPECTIONS

The Water Director shall have the right to enter upon any premises at all times to make the following inspections and tests for the purpose of enforcing this chapter.

(a) Initial Inspection. Upon receipt of an application, an inspection of the well location shall be made by the Water Director. The purpose of this inspection is to review site conditions and thereafter, where necessary:

- (1) Require relocation of the drilling site if the location shown on the permit application is too close to potential sources of pollution.
- (2) Set additional conditions if necessary to remediate any previously unknown ground water quality protection problems.

ORDINANCE NO. 2013-16

(b) Inspection of Well Seal. The Water Director shall inspect the annular space grout depth prior to sealing. The Water Director shall be notified by the well-driller when construction commences, and a minimum of twenty-four hours prior to sealing the annular space.

(c) Final Inspection. The Water Director may make a final inspection after completion of the work to determine whether the well was completed in accordance with this chapter. The well-driller shall notify the Water Director within seven days of the completion of the work.

16.06.080 COMPLETION REPORTS

(a) Submittal of Completion Report. A copy of the State “Report of Completion”, (Water Well Driller’s Report, California Department of Water Resources Form 188) shall be submitted by the permittee to the Water Department within thirty days of the completion of the construction, alteration or destruction job of a regulated well.

(b) Water Quality Sampling. Any reports required with respect to water quality referenced in Section 15 of said Bulletin No. 74-81 and subsequent supplements or revisions shall to be forwarded to the Water Department by the permittee.

(c) Other Agency’s Requirements. Nothing contained in this chapter shall be deemed to release any person from compliance with the provisions of California Water Code Sections 13750 through 13755 relating to notices and reports of completion or any other federal, state, or local reporting requirements.

16.06.090 INVESTIGATION

The Water Director may, when there is reasonable cause to believe that a well or an abandoned well is in violation of this chapter or is in violation of permit conditions, is causing a nuisance by polluting or contaminating water, investigate the situation to determine whether such a violation or nuisance does in fact exist. The Water Director shall have the power, when in the performance of this duty and upon first presenting his credentials and identifying himself as an employee of the City to the person apparently in control of the premises, if available, to enter upon any such premises between the hours of 8:00 a.m. and 5:00 p.m., to discover or inspect any thing or condition which appears to indicate such a violation or nuisance. The Water Director may examine such premises, things or conditions, take such samples and make such tests as needed and take any other steps reasonably necessary for the proper investigation and determination of whether such a violation or nuisance exists.

16.06.100 ABATEMENT

Whenever the Water Director determines that a well or an abandoned well is polluting or contaminating water or is otherwise not in compliance with the provisions of this chapter, said well may be abated as a nuisance in accordance with the applicable provisions of this code.

(a) Abatement by City. In the event a nuisance is not abated in accordance with an order of abatement, the Water Director may, upon securing the approval of the City Council, proceed to abate the nuisance by force account, contract or any other method deemed most expedient by the Council.

(b) Payment of Abatement Cost by Owner.

(1) The Water Director shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the well is or was located, and the names and addresses of the record owner, the holder of any mortgage or deed of trust of record, and any other person known to have a legal interest in the property.

(2) A public hearing shall be held on said report before the City Council, and any protests or objections thereto and notice of the hearing shall be mailed to the persons with a legal interest in the property at least ten days prior to the date for the hearing. The City Council shall determine at the hearing the correct charge to be made for the work. If such costs are not paid by the owner of said property within thirty days of the determination by the City Council; they shall be assessed upon the property involved as a special assessment. The special assessment will then be collected at the same time and in the same manner as city taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary city taxes. All laws applicable to the levy, collection, and enforcement of city taxes shall be applicable to such special assessment.

(c) Abatement of Safety Hazard. This chapter shall not affect the right of the City to abate as a public nuisance pursuant to Article 9, Chapter 1, Division 1, Title 5, of the Government Code (commencing with Section 50230), or other applicable law, any abandoned well, or cathodic protection well, or other well which presents a safety hazard.

16.6.110 RIGHT OF APPEAL

Decision or Action of Director. Any person, public agency or utility aggrieved or affected by any decision or action taken pursuant to the authority of this chapter by the director may appeal that decision or action to the City Council pursuant to Chapter 1.16 of this code.

SECTION 2: Severability. The provisions of this chapter are hereby declared to be severable and if any sentence, clause, section or part hereof is held to be unconstitutional, it is the intent of the city council that such portion of such chapter be severable from the remainder, and that the remainder be given full force and effect.

SECTION 3: This ordinance shall be in full force and take effect thirty (30) days following its final adoption.”

ORDINANCE NO. 2013-16

PASSED FOR PUBLICATION this 24th day of September, 2013, by the following vote:

AYES: Councilmembers Terrazas, Comstock, Lane, Mathews, Posner; Vice Mayor Robinson, Mayor Bryant.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Hilary Bryant, Mayor

ATTEST: ss/Bren Lehr/City Clerk Administrator

PASSED FOR FINAL ADOPTION this 8th day of October, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2013-16 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz

City Clerk Administrator