

COUNTY OF SAN MATEO

INTERDEPARTMENTAL CORRESPONDENCE

To: Honorable Board of Supervisors
From: County Counsel
Subject: Introduction of Ordinance Amending Chapter 4.68 (Wells) of the San Mateo County Ordinance Code Relating to the Processing of Well Permits
Date: June 29, 2001

RECOMMENDATION: Introduce an ordinance which amends Chapter 4.68 (Wells) of the San Mateo County Ordinance Code, and waive reading of the ordinance in its entirety.

Background:

Chapter 4.68 of the San Mateo County Ordinance Code sets forth the regulations by which the Office of Environmental Health administers its permit program for wells in the unincorporated area of San Mateo County. Historically, the purpose of these regulations has been threefold: (1) to ensure that the quantity of water obtained from a particular well meets minimum standards for the contemplated use, measured in gallons per minute; (2) to ensure that the well water meets minimum state standards for potability if it is proposed for domestic use; and (3) to ensure that minimum setbacks from property lines, sewer lines and septic fields are met. The County's well permitting process has always been "considered "ministerial," in that the permit involves evaluating a well against established standards. For this reason, environmental review under the California Environmental Quality Act ("CEQA") has not been required in conjunction with such permits, since "ministerial" actions are not subject to CEQA.

A recent decision by the San Mateo Superior Court, which has not yet become final, concluded that the County's well permitting process under the County's prior well regulations was "discretionary" and thus subject to CEQA, based on certain language in the regulations. In the view of the Office of Environmental Health, this conclusion does not reflect the true nature of the County's administration of its well regulations as it has been practiced for decades. Although the County recently amended its well regulations, similar language appears in the new regulations.

In order to address the Court's decision, and to ensure the County's well regulations reflect the ministerial nature of the well permitting process, amendments are being proposed to certain sections of the current well regulations to eliminate language that could be construed to convert a ministerial process into a discretionary one. The changes would retain all of the

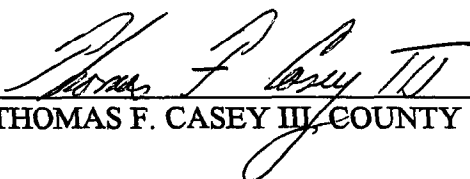
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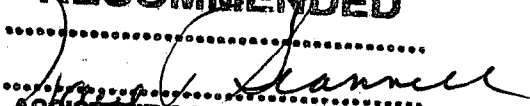
prescribed standards as to setbacks, potability, and minimum pumping rates. The amendments would also retain the variance provisions. The granting of a variance would constitute a discretionary decision, and that decision would be subject to CEQA review. Additionally, the adoption of these amendments would not affect other discretionary permits that might be required for a particular project which proposed to use well water.

Fiscal Impact.

There would be no direct fiscal impact to these amendments since they would be intended to ensure that the historical practice with regard to the issue of well permits by the Office of Environmental Health is continued.


THOMAS F. CASEY III, COUNTY COUNSEL

cc: John Maltbie, County Manager
Margaret Taylor, Director, Health Services Agency
Brian Zamora, Director Public Health
Dean Peterson, Director, Environmental Health
Marcia Raines, Director, Environmental Services Agency
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RECOMMENDED
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ASSISTANT COUNTY MANAGER

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

**AN ORDINANCE AMENDING SECTIONS 4.68.110, 4.68.140,
4.68.310, 4.68.320, 4.68.330, 4.68.340, AND 4.68.380 OF
CHAPTER 4.68 (WELLS) OF THE SAN MATEO COUNTY ORDINANCE CODE**

The Board of Supervisors of the County of San Mateo, State of California, ORDAINS as follows:

Section 1. Section 4.68.110 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.110 Water well slabs.

All water wells shall be provided with a watertight reinforced concrete slab of a minimum thickness of (6) six inches which shall extend horizontally at least two (2) feet from the well casing in all directions. The concrete slab shall be adequately sloped to drain water away from the well casing. The top surface of the slab at its outer edge shall be at least four (4) inches above the surrounding ground level.

Section 2. Section 4.68.140 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.140 Location of water well.

In order to protect the water source and public health and safety, all water wells shall be set back from possible sources of pollution and contamination. The minimum setbacks, measured horizontally from the well, shall be:

From another well	50 feet
From any septic tank	100 feet
From a septic tank leachfield	100 feet
From a seepage pit	150 feet
From a sewer line or lateral	50 feet
From a property line (sewered area)	5 feet
From a property line (unsewered area)	50 feet
From an exterior wall of a building's foundation	5 feet
From a boundary line of any easement dedicated to or reserved for sanitary sewers or wastewater facilities as shown on a map approved by a sanitary district and placed on file by that district with the County Environmental Health Division	50 feet

Section 3. Section 4.68.310 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.310 Issuance of permit.

A permit or certificate provided under this chapter shall be issued by the County Health Officer within fifteen (15) working days after receipt of an appropriate and complete application and payment of the required filing fee if the proposed construction, reconstruction, repair, destruction, conversion, use, inactivation, operation or certification of the well complies with the requirements of this chapter.

Section 4. Section 4.68.320 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.320 Variances.

A variance from the specific terms of this chapter may be granted by the County Health Officer when, due to special conditions or exceptional circumstances of the property, its location or surroundings, a literal enforcement of this chapter would result in unnecessary hardships. A variance cannot be approved if it would be contrary to the intent of this chapter or harm public

health, safety or welfare. Applications for a variance shall be made in writing and filed with the County Health Officer with the request for a permit or certificate provided by this chapter.

Section 5. Section 4.68.330 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.330 Suspension or revocation of a permit.

(a) In the event any person holding a permit for the construction, reconstruction, repair, destruction, inactivation, conversion or operation of a well pursuant to this chapter violates the terms of the permit, this chapter or state law, the County Health Officer shall revoke or suspend said permit in accordance with the procedures set forth below:

(b) Except as provided in subdivision (c) of this Section, no permit issued under the provisions of this chapter shall be revoked or suspended until a hearing is held by the County Health Officer. Written notice of the hearing and intent to revoke or suspend the permit shall be served upon the permittee as provided in subSection (d) below.

(c) The County Health Officer may revoke or suspend a permit issued under this chapter before a hearing is held on the matter if, in the opinion of the County Health Officer, the continued activity or use results in a violation of applicable state or local standards relating to the establishment or operation of wells, or results in a public nuisance.

(d) Written notice under this Section shall state the grounds for the revocation or suspension in clear and concise language, and the date, time, and place for the hearing. Such notice shall be served by registered mail or personal service on the permittee at least ten (10) days prior to the date set for the hearing.

Section 6. Section 4.68.340 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby amended to read as follows:

4.68.340 Hearing and determination.

At the hearing provided under Section 4.68.330, the permittee or an authorized representative shall be given an opportunity to be heard and present evidence. Upon conclusion of such hearing, the County Health Officer shall determine whether or not the permit shall be suspended or revoked. The decision of the County Health Officer shall be made in writing within thirty (30) days after the hearing and shall provide the reasons for the decision. The written declaration shall be served by registered mail or personal service upon the permittee.

Section 7. Section 4.68.380 of Chapter 4.68 of the San Mateo County Ordinance Code is hereby repealed.

Section 8. This ordinance will be effective in thirty (30) days from its passage.

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