

## APPENDIX B<sup>1</sup>

APPENDIX B .....	1
15.08.010 PURPOSE. ....	1
15.08.020 DEFINITIONS AND INTERPRETATION.....	2
15.08.030 PERMIT—REQUIRED.....	3
15.08.040 PERMIT—COMPLIANCE WITH CONDITIONS. ....	4
15.08.050 PERMIT—APPLICATION FEE. ....	4
15.08.060 PERMIT—ISSUANCE OR DENIAL .....	5
15.08.070 PERMIT—EXPIRATION.....	5
15.08.080 PERMIT—SUSPENSION AND REVOCATION. ....	5
15.08.090 VARIANCES. ....	5
15.08.100 INSPECTIONS. ....	6
15.08.110 TECHNICAL STANDARDS.....	6
15.08.120 ABANDONED WELL.....	7
15.08.130 REPEALED BY ORD. 13 § (2)(C). ....	8
15.08.140 SPECIAL GROUNDWATER PROTECTION. ....	8
15.08.150 FEDERAL, STATE AND LOCAL REPORTING REGULATIONS. ....	9
15.08.160 APPEALS. ....	9
15.08.170 RIGHT OF ENTRY AND INSPECTION. ....	9
15.08.180 CRIMINAL ENFORCEMENT AND PENALTIES. ....	10
15.08.190 CIVIL ENFORCEMENT—NOTICE OF VIOLATION.....	10
15.08.200 CIVIL ENFORCEMENT—NUISANCE. ....	11
15.08.210 SEVERABILITY. ....	11

### Chapter 15.08 WATERWELLS

#### Sections:

##### **15.08.010 PURPOSE.**

The purposes of this chapter are:

---

<sup>1\*</sup> Editor's Note: Appendix B represents Chapter 15.08, waterwells, of the Monterey County Code as amended and referenced in Section 3.32.010 of this code.

- A. It is the purpose of this chapter to provide for the construction, repair, and reconstruction of all wells, including cathodic protection wells, test wells, observation wells, and monitoring wells, to the end that the groundwater of this County will not be polluted or contaminated and 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 County. It is also the purpose of this chapter to provide for the destruction of abandoned wells, monitoring wells, observation wells, test wells, and cathodic protection wells found to be public nuisances, or when otherwise appropriate, to the end that all such wells will not cause pollution or contamination of groundwater.
- B. To comply with Articles 1, 2, 3, and 4 (commencing with Section 13700) of Chapter 10, Division 7 of the Water Code, relating to water wells, cathodic protection wells and monitoring wells.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 1, 1973.)

## **15.08.020 DEFINITIONS AND INTERPRETATION.**

- A. As used in this chapter, the following words shall have the meaning provided in this section:
  1. "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 considered an inactive well as set forth in Section 15.08.120.
  2. "Abatement" means the construction, reconstruction, repair or destruction of a well so as to eliminate the possibility that such well could pollute or contaminate groundwater.
  3. "Air-gap Separation (AG)" is a physical break between the supply line and the receiving vessel.
  4. "Cathodic protection well" means any artificial excavation in excess of fifty feet in depth constructed by any method for the purpose of installing equipment or facilities for the protection electronically of metallic equipment in contact with the ground, commonly referred to as cathodic protection.
  5. "Casing" means an approved conduit required to prevent the waste and pollution of the groundwater and to hold the bore hole open during the use of the well.
  6. "Double check valve (DC)" is an assembly of at least two independently acting check valves including tightly closing shut-off valves on each side of the check valve assembly and test cocks available for testing the water tightness of each check valve.
  7. "Groundwater problem area" means an area in Monterey County where groundwater quality does not meet Federal, State or local drinking water standards. The location of these areas are usually known to the Health Officer or his authorized representative, the Director of Environmental Health. When this code refers to "areas where groundwater problems are known to exist," it refers to those areas where the Health Officer knows, or has reason to believe, groundwater does not meet the Federal, State, or Local drinking water standards.
  8. "Health Officer" means the Health Officer of the County of Monterey, or his authorized representative, including the Director of Environmental Health.
  9. "Inactive well" means a well not routinely operated but capable of being made an operating well with a minimum of effort.
  10. "Issuance of permit." A permit is issued when it is signed by the Health Officer or his authorized representative and is available to be picked up by the applicant or mailed to the applicant.

11. "Monitoring well" means any artificial excavation constructed by any method for the purpose of monitoring fluctuations in groundwater levels, quality of underground waters, or the concentration of contaminants in underground waters.
12. "Person" means any individual, organization, partnership, business, association, corporation, or governmental agency.
13. "Property line" means the legally established line separating one piece of property from another or separating a public right-of-way from private properties.
14. "Test well" means any artificial excavation used for water quality testing, electric logging, water quantity testing and/or other tests to determine aquifer quality and quantity characteristics.
15. "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" includes abandoned wells, monitoring wells, observation wells, cathodic protection wells, test wells, and dry wells. "Well" or "water well" does not include:
  - a. 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; or
  - b. Wells used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments.
16. "Enforcement agency" means that agency(s) designated by the Board of Directors of the Marina Coast Water District to administer and enforce this chapter.

B. 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.

C. Section headings, when contained in this chapter, shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section.

(Amended during 3-02 supplement: Ord. 13, § (2)(a), 1990; Ord. 3316 §§ 1 & 2, 1988; Ord. § 2, 1977; Ord. 1967 § 2, 1973.)

### **15.08.030 PERMIT—REQUIRED.**

- A. No person shall construct, repair, reconstruct or destroy any well, abandoned well, cathodic protection well, observation well, monitoring well, or test well unless a written permit has first been obtained from the County Health Officer of the County or his authorized representative as provided in this chapter.
- B. Any person who shall commence any work for which a permit is required by this chapter without having obtained a permit therefor, shall, if subsequently granted a permit, pay double the permit fee for such work; provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the County Health Officer that such work was urgently necessary and that it was not practical to obtain a permit before commencement of the work. In all cases in which emergency work is necessary, a permit shall be obtained within three (3) working days after commencement of the work. The applicant for a permit for any such emergency work shall, in any case, demonstrate that all work performed is in compliance with the technical standards of Section 15.08.110 of this chapter. Emergency work includes but is not limited to wells necessary for the operation of a water system or agricultural operation.
- C. Obtaining the permit, pursuant to this chapter, does not relieve an applicant from obtaining other required permits or following the regulations required by any other Federal, State, or local Codes.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 3(a), 1973.)

### **15.08.040 PERMIT—COMPLIANCE WITH CONDITIONS.**

- A. No person to whom a permit has been issued, as provided for in Section 15.08.030, shall fail to comply with all of the terms and conditions of the permit and with the standards specified in this chapter.
- B. No person shall undertake to dig, bore, or drill a "well," including a water well, cathodic protection well, observation well, test well, or monitoring well, or to deepen or re-perforate any water well, cathodic protection well, observation well, test well, or monitoring well, or to abandon or destroy any water well, cathodic protection well, or monitoring well, unless the person responsible for that construction, alteration, destruction, or abandonment possesses a Contractor's license in accordance with the Contractor's License Law (Chapter 9, Division 3, of the California Business and Professions Code) provided, however, that a property owner may construct or destruct a well on his own property, which well serves or will serve the property that is neither being offered for sale nor intended to be so offered. (Water Code Section 13750.5.)

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 3(b), (c), 1973.)

### **15.08.050 PERMIT—APPLICATION FEE.**

- A. Application for a permit pursuant to this chapter shall be made to the County Health Officer, in such form as he may prescribe, setting forth such information as he may reasonably require to secure the purposes of this chapter, and shall contain:
  - 1. Property owner's name, home address and telephone number.
  - 2. A description of the property where the work is to be done, sufficient for identification, such as street address, name of subdivisions or tract, lot number, and county assessor's parcel number.
  - 3. Sketched outline of the property, giving dimensions and the direction of north to include:
    - a. Location and nature of any existing sewage disposal installation on the property or within one hundred fifty (150) feet of the property.
    - b. Location of any existing well, whether domestic or irrigation, and whether in use or abandoned, either on the property or within one hundred (100) feet of the property.
    - c. Location of ocean, lakes, sloughs, streams, springs, water channels and water supplies on or adjacent to the property.
    - d. Location of all recorded easements.
    - e. Location of all recorded well lots on the property or within two hundred (200) feet of the property.
  - 4. The type of work to be done and a description of the type of construction.
  - 5. Such additional data as may be necessary, in the judgment of the County Health Officer, to insure public health, safety, and welfare.
- B. The application shall be accompanied by a fee as prescribed in Title 10.08, Section 10.08.050BB, no part of which shall be refundable.
- C. Within two (2) days after the application has been made to the County Health Officer, a copy of the application shall be filed with the General Manager of the Marina Coast Water District.

(Amended during 3-02 supplement: Ord. 13 § (2)(b), 1990; Ord. 3316 §§ 1 & 2, 1988; Ord. 3256 § 4, 1987; Ord. 2944, 1983; Ord. 2567, 1979; Ord. 2252, 1979; Ord. 2034, 1974; Ord. 1967 § 4(a), 1973.)

### **15.08.060 PERMIT—ISSUANCE OR DENIAL.**

When the County Health Officer issues a permit pursuant to this chapter, he may condition the permit in any manner he deems necessary to carry out the purposes of this chapter. Conditions may include, but are not limited to, proper construction, destruction, reconstruction, sealing methods, and quantity and quality testing methods as the County Health Officer finds necessary to carry out the purposes of this chapter. The County Health Officer shall deny an application for a permit if, in his judgment, its issuance would tend to defeat the purpose of this chapter.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 4(b), 1973.)

### **15.08.070 PERMIT—EXPIRATION.**

Every permit issued pursuant to this chapter shall expire and become null and void if the work authorized thereby has not been completed within one (1) year following its issuance. Upon expiration no further work shall be done unless and until a new permit has been obtained or applicant has received up to a 60-day extension in exceptional circumstances.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 2980 § 1, 1984; Ord. 1967, 1973.)

### **15.08.080 PERMIT—SUSPENSION AND REVOCATION.**

- A. The Health Officer may suspend or revoke any permit issued pursuant to this chapter, whenever he finds that the permittee has violated any of the provisions of this chapter, or has misrepresented any material fact in his application, or any supporting documents, for such permit. Prior to ordering any such suspension or revocation, the Health Officer shall give the permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be an informal hearing before the Health Officer or his designated representative. An appeal may be taken as set forth in § 15.08.160.
- B. 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 Officer.
- C. Upon suspending or revoking any permit, the Health Officer 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 this chapter shall fail to comply with any such order.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 5, 1973.)

### **15.08.090 VARIANCES.**

The Health Officer shall have the power, in specific cases, to grant a variance from any provision of the standards incorporated into this chapter by reference whenever he finds that special circumstances exist in a particular case and that practical difficulties or unnecessary hardship would result from the strict interpretation and enforcement of any such standard, and that the granting of such a variance would not tend to defeat the purposes of this chapter. There is no appeal from denial of a variance. The standards incorporated into this chapter are based upon public health standards for the protection of groundwater supplies. Variances are based upon the technical expertise of the Health Officer or his authorized representative, the Director of Environmental Health, and his exercise of discretion in using that expertise.

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 6, 1973.)

### **15.08.100 INSPECTIONS.**

Upon receipt of an application an inspection of the location of the well, test well, or cathodic protection well shall be made by the Health Officer prior to issuance of a well permit. Inspection of monitoring well or observation well locations prior to permit issuance may be made at the discretion of the Health Officer.

The person responsible for construction, reconstruction or destruction of any well shall notify the Health Officer when work commences. All work shall be subject to inspection by the Health Officer to insure compliance with all the requirements of this chapter.

(Ord. 3316 §§ 1 & 2, 1988.)

### **15.08.110 TECHNICAL STANDARDS.**

#### **A. Standards.**

Standards for the construction, repair, reconstruction of or destruction of "wells," including abandoned wells, monitoring wells, test wells, observation wells, and cathodic protection wells shall be as set forth in Chapter II and Appendices A, B, C, D of the Department of Water Resources Bulletin No 74-81, "Water Well Standards" (December, 1981) and the Department of Water Resources Bulletin No. 74-1, "Cathodic Protection Well Standards" (March, 1973), or as subsequently revised or supplemented. Copies of these standards are available in the offices of the Division of Environmental Health or on file with the Health Officer. These standards are incorporated by reference in this chapter, with the following modifications:

1. The minimum distance between wells and subsurface sewage leaching fields or septic tanks shall be 100 feet, and the minimum distance between wells and seepage pits shall be 150 feet.
2. The annular space surrounding the conductor casing of all wells shall be sealed with neat cement, sand cement grout, neat cement/ pozzolan/polymer mixture, bentonite clay (in continuously saturated zones), or any other equal or similar compound approved by the Health Officer from the ground level to a minimum depth of 50 feet or as required by the Health Officer for groundwater protection. The annular space shall be as least two inches when measures at any point around the casing.
3. The seal shall do all of the following:
  - a. Restore, as far as feasible, the controlling hydrological conditions that existed before the well was drilled and constructed, including the elimination of physical hazards.
  - b. Prevent pollution of groundwater.
  - c. Conserve the yield and hydrostatic head of aquifers.
  - d. Prevent intermingling of desirable and undesirable waters.
4. Drilling fluids and other drilling materials used in connection with well construction shall not be allowed to discharge onto streets or into waterways; and shall not be allowed to discharge off the parcel on which the well is constructed onto adjacent properties; provided, that adjacent property may be used temporarily for the discharge of such fluids and materials pursuant to a written agreement with the owner(s) of the adjacent property and provided that such fluids and materials are removed and cleaned up within thirty days of completion of the well drilling.

5. Water generated during test pumping of wells shall be dispersed or disposed of in a manner which will not cause significant erosion.
6. Modifications 1 and 2 may not apply to monitoring wells at the discretion of the Health Officer or his authorized representative.

B. Casing.

All wells shall be cased and constructed so as to prevent pollution. The casing shall meet the minimum applicable standards set by the American Petroleum Institute, the American Society for Testing and Materials, the American Water Works Association, and the Plastic Pipe Institute, as they relate to the specifications for water well casing.

C. Capping of a Well.

If a pump is not installed at the time of drilling a well, a tight cap shall be placed over the casing so as to prevent pollution of the well or injury to animals or humans. During this time, as well as after a pump is installed, all openings shall be sealed off to prevent any pollution of the well.

D. Domestic Water Well Sanitization.

All domestic water wells shall be provided with a pipe or other effective means of directly introducing chlorine or other disinfecting agents into the well.

E. Exclusion of Contamination.

All water wells shall be designed and constructed to exclude contamination as follows:

1. All sanitization pipes, for an above surface pump discharge installation, shall extend to a height equal to the pump pedestal that is at least 8 inches above the finished grade. The pipe shall be kept sealed by a threaded or equivalently secure cap.
2. All sanitization pipes for a subsurface pump discharge installation shall be kept sealed by a threaded or equivalently secure cap.
3. All air relief vents at the well head shall terminate downward and be screened and protected against the possibility of contaminating material entering the vent.
4. All entry pipes into gravel packed sections of a well shall be kept sealed by a threaded or equivalently secure cap.

F. Sounding Tube.

A "sounding tube" or similar access for the introduction of water level measuring devices shall be applied to the casing of all water wells. For wells fitted with a "well cap" the cap shall have a removable plug for this purpose. For wells with turbine pumps special sounding tube designs may be required by the Health Officer or his authorized representative.

(Ord. 3316 §§ 1 & 2, 1988.)

### **15.08.120 ABANDONED WELL.**

A. A well is considered "abandoned" when it had not been used for a period of one year, unless the owner can demonstrate his intention to use the well again for supplying water or other associated purpose (such as an observation well, monitoring well, or injection well). The well shall then be considered "inactive." As evidence of his intentions for continued use, the owner shall properly maintain the well in such a way that:

1. The well has no defects which will allow the impairment of quality of water in the well or in the water-bearing formations penetrated.
2. The well is covered such that the cover is watertight and cannot be removed, except with the aid of equipment or the use of a tool.
3. The well is marked so that it can be clearly seen.
4. The area surrounding the area is kept clear of brush or debris.

If the pump has been removed for repair or replacement, the well shall not be considered "abandoned." During the repair period, the well shall be adequately covered to prevent injury to people and to prevent the entrance of undesirable water or foreign matter.

- B. In areas where groundwater problems are known to exist, abandoned wells that penetrate and/or are perforated into two (2) or more aquifers shall be destroyed and shall be considered "inactive."
- C. On abandonment of a well or on the order of the local Health Officer, a well shall be destroyed by methods described in Bulletin 74-81 which are incorporated by reference in this chapter with the following modifications:
  1. All open wells shall be immediately capped with a fixed cover until the well is properly destroyed.
  2. In areas where groundwater problems are known to exist and where an abandoned well penetrates and/or is perforated in more than one (1) aquifer, the perforations shall be cleaned (when applicable), the casing shall be perforated (when applicable) and neat cement, neat cement/pozzolan/polymer mixture, or any other approved compound by the County Health Officer shall be forced out under pressure into the surrounding formation in order to prevent migration of water from one aquifer to another.
- D. Monitoring wells, observation wells or test wells used in the investigation or management of groundwater basins by governmental agencies or engineering or research organizations are not considered "abandoned," so long as they are maintained for this purpose. Such wells, however, shall be covered with an appropriate cap, bearing the label, "OBSERVATION WELL," and the name of the agency or organization, and preferably shall be locked when measurements are not being made. When these wells are no longer used for this purpose or for supplying water, they shall be considered "abandoned." Abandonment shall be the responsibility of the landowner.
- E. All test wells not completed according to these standards shall be destroyed by methods described by Bulletin 74-81.

(Ord. 3316 §§ 1 & 2, 1988.)

### **15.08.130 REPEALED BY ORD. 13 § (2)(C).**

### **15.08.140 SPECIAL GROUNDWATER PROTECTION.**

- A. In areas where groundwater quality problems are known to exist and where a well will penetrate more than one (1) aquifer, the County Health Officer shall require special well seal(s) to prevent mixing of aquifers. If required by the County Health Officer, the applicant shall provide a hydrologist, geohydrologist, engineer or other qualified person approved by the County Health Officer to identify strata containing poor water quality and recommend the location and specifications of the seal or seals needed to prevent the entrance of poor-quality water or its migration into other aquifers. Interpretation of aquifers shall be based upon data obtained from the litholog, multiple probe electric log and spontaneous potential logs of the well hole.

If a hydrologist, geohydrologist, engineer or other such qualified person is required, the well shall be completed with the seal or seals specified by the hydrologist, geohydrologist, engineer or other such qualified person. Any person performing and evaluating a multiple probe electric log or spontaneous potential log shall submit copies of the logs and analysis to the County Health Officer. The County Health Officer may require other types of well logs such as caliper logs, acoustic logs, and cement bond logs.

B. In the Marina Coast Water District, well construction shall be subject to the requirements found in the Specifications for Wells in Zone 6 of the Monterey County Flood Control and Water Conservation District which are on file with the County Health Officer and the Monterey County Flood Control and Water Conservation District.

(Amended during 3-02 supplement: Ord. 13 § (2)(d), 1990; Ord. 3316 §§ 1 & 2, 1988.)

#### **15.08.150 FEDERAL, STATE AND LOCAL REPORTING REGULATIONS.**

- A. Nothing contained in this chapter shall be deemed to excuse any person from compliance with the provisions of Article 3 (commencing at Section 13750) of Chapter 10, Division 7 of the Water Code, relating to notices and reports of completion or any other State or Federal reporting regulations.
- B. Upon completion of any well, the owner or his authorized representative shall file with the County Health Officer and with the General Manager of the Marina Coast Water District a copy of the report of completion referred to in Section 13751 of the Water Code.
- C. Nothing contained in this chapter shall be deemed to excuse any person from compliance with local codes regarding reporting and registration.
- D. In accordance with California Water Code section 13752, reports shall be kept confidential. Reports shall be made available to any person who obtains written authorization from the owner of the well.

(Amended during 3-02 supplement: Ord. 13 § (2)(e), (f), 1990; Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 8, 1973.)

#### **15.08.160 APPEALS.**

- A. Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended or revoked, may appeal to the board of supervisors, 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 County Health Officer, in writing, of the time so set at least five (5) days prior to the hearing.
- B. After such hearing, the board of supervisors may reverse, wholly or partly, or may modify the order or determination appealed from.
- C. The filing fee may be set from time to time by the board of supervisors by ordinance (Fee Ordinance: Monterey County Code § 10.08.050BB).

(Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 9, 1973.)

#### **15.08.170 RIGHT OF ENTRY AND INSPECTION.**

The County Health Officer is designated the primary agency, and the General Manager of the Marina Coast Water District is designated as the secondary agency to enforce and administer this chapter. Representatives of the enforcement agency and of the Marina Coast Water District 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, the inspecting representative shall first present proper credentials and demand entry, and if same is unoccupied, the inspecting representative 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, the County Health Officer and the Marina Coast Water District shall have recourse to such remedies as are provided by law to secure entry.

(Amended during 3-02 supplement: Ord. 13 § (2)(g), 1990; Ord. 3316 §§ 1 & 2, 1988; Ord. 1967 § 10, 1973.)

### **15.08.180 CRIMINAL ENFORCEMENT AND PENALTIES.**

A. Violation a Misdemeanor. Any person, private agency or public agency who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof is punishable by imprisonment in the county jail for not more than six (6) months, or by a fine not exceeding five hundred dollars (\$500.00), or by both. Each separate date, or portion thereof, during which any such violation continues, shall be deemed a separate offense.

(Ord. 3316 §§ 1 & 2, 1988.)

### **15.08.190 CIVIL ENFORCEMENT—NOTICE OF VIOLATION.**

A. Notice of Violation Recordation. Whenever the County Health Officer determines that a well has not been completed in accordance with a well permit or the plans and specifications relating thereto, or whenever the County Health Officer determines that a well has been constructed or destroyed without the required permit, the County Health Officer 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 with the determination, he may submit to the County Health Officer indicating that there is no violation and then shall have a right to appeal on adverse decision of the County Health Officer to the Board of Supervisors, in accordance with the provisions of Section 15.08.190(B).

B. Appeal—Action by Board of Supervisors.

1. Upon receipt of the notice of appeal the board of supervisors shall, within fifteen (15) days following the filing of the appeal, set a date for public hearing thereon.
2. The evidence presented to the board of supervisors on appeal shall be limited to that evidence which is available at the time of the appeal, the application may be returned to the County Health Officer for reconsideration.
3. If the basis of the appeal is the adequacy or weight of the evidence to support the decision of the County Health Officer, the board of supervisors shall affirm if there is substantial evidence to affirm.
4. The board of supervisors 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, and such action shall be final.

C. Violation Removal of Notice.

1. The County Health Officer shall submit a removal of notice of violation to the county recorder when:
  - a. It is determined by the County Health Officer or the board of supervisors, after review, that no violation of this chapter exists; or
  - b. All required and corrective work has been completed and approved by the County Health Officer.

2. The fee for the submittal of removal of notice of violation shall be that set from time to time by the board of supervisors (Fee Ordinance: Monterey County Code § 10.08.050 BB).

(Ord. 3316 §§ 1 & 2, 1988.)

## **15.08.200 CIVIL ENFORCEMENT—NUISANCE.**

Violations of this chapter may also be redressed in the matter hereinafter set forth by civil action.

- A. Civil Enforcement Against Nuisance. Any well abandoned contrary to the provisions of this chapter, and/or any well constructed, operated or maintained contrary to the provisions of this chapter, shall be, and the same is hereby declared to be a violation of this chapter, and a public nuisance. The County and/or the Marina Coast Water District may summarily abate the public nuisance, and the County upon order of the Board of Supervisors, and the Marina Coast Water District upon order of its Board, may bring civil suit, or other action, to enjoin or abate the nuisance.

- B. Each Day is a Violation.

Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and not exclusive.

- C. Cost of Civil Enforcement.

Any person, firm or corporation who creates or maintains a public nuisance in violation of this chapter shall be liable for the costs of abatement which shall include, but not be limited to:

1. Cost of investigation;
2. Court costs;
3. Attorney's fees;
4. Costs of monitoring compliance.

Upon a continuation of the public nuisance after notice from the County to cease the nuisance, any person, firm or corporation shall be liable for the costs of abatement set forth above plus a civil penalty of fifty (50) percent of those costs payable to the County in addition to any other costs of enforcement imposed by the court.

- D. Remedies Cumulative. The remedies available to the County and the Marina Coast Water District to enforce this chapter are in addition to any other remedies available under ordinance, the Monterey County Code, or statute, and do not replace or supplant any other remedy, but are cumulative thereto. (Amended during 3-02 supplement: Ord. 13 § 2 (h), (i), 1990; Ord. 3316 §§ 1 & 2, 1988; Ord. 2786, 1981.)

## **15.08.210 SEVERABILITY.**

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is or 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 chapter, including any other section, subsection, sentence, clause or phrase therein. (Amended during 3-02 supplement: Ord. 3316 § 1 & 2, 1988.)