

**TITLE 9**

**DIVISION 21: WATER WELL REGULATIONS**

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**CHAPTER 1: GENERAL**

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**§ 92101.00 PURPOSE**

Imperial County is an arid region located in the Southeastern portion of the State of California and the preservation and protection of the County's ground water resources are extremely critical. The Board of Supervisors hereby finds and declares that the preservation, protection and management of the groundwater within the County for the protection of domestic, commercial, agricultural, industrial, municipal, wildlife habitat, and other uses is in the public interest, that protection is necessary to ensure availability of groundwater reasonably required to meet the present and future beneficial needs of the County, and that the adoption of a system of regulation of groundwater is for the common benefit of all County water users. The Board of Supervisors has, therefore, determined to regulate the use, consumption and development of ground water on a County-wide basis. Further, it is the intent of the Board of Supervisors to protect the health, safety, and general welfare of the people of Imperial County by insuring that the ground water of this County will not be polluted or contaminated. To this end, minimum requirements have been prescribed in this Ordinance for the construction, re-construction, repair, replacement, re-perforation, re-activation, operation, and destruction of a well or wells.

**§ 92101.01 DEFINITIONS**

- A. Cathodic Protection Well: Any artificial excavation constructed by any method for the purpose of installing equipment or facilities for the electrical protection of metallic equipment in contact with the ground.
- B. Commercial Well (Small): A water well used to supply a single commercial establishment, consuming less than 10 acre feet per year ("AF/Y") of ground water.
- C. Commercial Well (Large): A water well used to supply more than one (1) commercial establishment, or utilizing more than 10 AF/Y.
- D. Community Water Supply Well: A water well used to supply water for domestic, commercial industrial purposes in systems subject to Chapter 7 of Part I of Division 5 of the California Health and Safety Code (Section 4010 et. seq.), i.e. more than five (5) service connections.
- E. Construct, Reconstruct, (Construction, Reconstruction): To dig, drive, bore, drill, or deepen a well, or to re-perforate, remove, replace, or extend a well casing.
- F. Contamination: An impairment of the quality of water to a degree that creates a hazard to the public health through poisoning or spread of disease.
- G. Deep Anode Bed Well: Any cathodic protection well more than 50 feet.

- H. Destruction: A proper filling and sealing of a well no longer useful so as to assure that ground water is protected and to eliminate a potential physical hazard.
- I. Electrical Grounding Well: Any artificial excavation in excess of 20 feet constructed by any method for the purpose of establishing an electrical ground.
- J. Enforcement Agency: An agency designated by the Board of Supervisors to administer and enforce this Ordinance. For the purpose of this Division it shall be the Planning & Development Services Department.
- K. Individual Domestic Well: A water well used to supply water for domestic needs of an individual residential, utilizing less than the (10) AF/Y.
- L. Modification, Repair, or Reconstruction: The deepening of a well, the re-perforation, or replacement of a well casing and all well repairs and modifications that can affect ground water quality.
- M. Observation Well: A well used for monitoring or sampling the conditions of a water-bearing aquifer, such as water pressure, depth, movement or quality.
- N. Permit: A Building Permit issued by the County of Imperial Planning & Development Services Department, permitting the construction, reconstruction, destruction, or abandonment of a well.
- O. Person: Any person, firm, corporation, or governmental agency, to the extent authorized by law.
- P. Planning Director: The Planning Director of Imperial County or his designee.
- Q. Pollution: 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 contain contamination.
- R. Potable: Water generally intended for human consumption and/or meeting safe drinking water standards by State or Federal regulations.
- S. Public Nuisance: The term "Public Nuisance", when applied to a well, shall mean any well which threatens to impair the quality of ground water or otherwise jeopardize the health and safety of the public.
- T. Shallow Anode Bed Well: Any cathodic protection well more than 20 feet deep, but less than 50 feet deep.
- U. Test or Exploratory Well: An excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic safety, direct observation or any other means.
- V. Well: An artificial excavation constructed by any method for the purpose of extracting water from or injecting water underground, or providing cathodic protection or electrical grounding of equipment, for making tests for observation of underground conditions, or for any other similar purposes. Wells shall include, but shall not be limited to, community water supply wells, individual domestic water wells, commercial wells, industrial wells, cathodic protection wells, electrical grounding wells, test or exploratory holes, observation wells and other wells whose regulation is necessary to accomplish purposes of this Chapter.

Wells shall not include: (1) oil and gas wells, geothermal wells, or other wells that are constructed under the jurisdiction of the State Department of Conservation, except oil wells converted to use as water wells; or (b) wells used for the purpose of de-watering excavations during construction, or stabilizing earth embankments.

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**CHAPTER 2: PERMITS**

§ 92102.00	PERMIT(S) REQUIRED
§ 92102.01	APPLICATION PROCEDURES
§ 92102.03	PERMIT CONDITIONS
§ 92102.04	PERMIT DENIAL
§ 92102.05	EXPIRATION OF PERMIT
§ 92102.06	SUSPENSION AND REVOCATION

**§ 92102.00 PERMIT(S) REQUIRED**

**A. Conditional Use Permit:**

No person shall (1) drill a new well, (2) activate a previously drilled but unused well, (unused shall mean a well or wells that have not been used for a 12 month) period by installing pumps, motors, pressure tanks, piping, or other equipment necessary or intended to make the well operational, (3) increase the pumping capacity of a well, or (4) change the use of a well, without first obtaining a Conditional Use Permit (CUP) through the County Planning & Development Services Department.

The pumping capacity shall mean the "permitted amount" or in the absence of a permit the annual acreage, over 3 year period.

Notwithstanding the above, a CUP is not required prior to drilling the following types of wells.

1. A test/monitoring/research well where no continued water use will result. Upon completion of the tests, the well shall be sealed/abandoned in compliance with the most current edition of State Water Resources Control Board Bulletin #74-81;
2. Any new well which will replace an existing inoperable well, provided that the inoperable well is serving an existing water user and is already properly permitted through the CUP process and provided the replacement well shall be the same or smaller size, diameter, and capacity as measured by gallons per minute ("GMP") as the inoperable well. In an emergency and even if the inoperable well was not permitted, the Director may approve replacing a well provided that the replacement well meets the requirements for the last approved CUP and does not exceed 1 acre feet per year.
3. A well that is drilled by or for the Department of Fish and Wildlife provided; however that they shall register each such well with the Planning & Development Services Department.

**B. Well Construction Permit.** No person shall dig, bore, drill, deepen, enlarge, refurbish, or destroy a water well, cathodic protection well, observation well, monitoring wells or any other excavation that intersects ground water without first obtaining a well construction permit through the Planning & Development Services Department. As a prerequisite to applying for a water well construction permit, the Planning & Development Services Department shall first determine whether a conditional use permit is required.

**§ 92102.01 APPLICATION PROCEDURES**

- A. Project information: The application for both a CUP and/or a Construction Permit shall be made to the Planning & Development Services Department on the forms approved or provided by the Department and shall, at a minimum, contain the following information:
1. Site Plan drawn to scale.
    - a. Location of well on property.
    - b. Size of property (all dimensions).
    - c. Distance from well to all property lines.
    - d. Distance from well to all septic/leach fields.
    - e. Distance from well to all structures.
    - f. All intermittent or perennial natural or artificial bodies of water or water sources.
    - g. The approximate drainage pattern of the property.
    - h. Other wells.
    - i. Structures--surface or subsurface.
  2. Location of property, Assessor's Parcel Number.
  3. Name of person who will construct the well.
  4. The proposed minimum and proposed maximum depth of well.
  5. The proposed minimum depth and type of casings and maximum depths of perforation to be used.
    - a. Pump type
    - b. Size (Diameter/horsepower)
    - c. gpm capacity
    - d. Water pressure
  6. The proposed use of well.
  7. Other information as may as necessary to determine if ground water will be adequately protected.
- B. Filing Fee(s): A filing fee shall be paid by the applicant. Said fee shall be as set forth in the Codified Ordinances of the County of Imperial. No filing or permit fee shall be required to abandon or destroy a well.
- C. Emergency Work: In an emergency in order to maintain drinking water or agricultural supply systems as determined by the Planning Director, the following procedures shall apply:
1. Permittee shall notify the Planning & Development Services Department that an emergency exists that necessitates the immediate repair or replacement of a well or associated water system. Permittee shall provide all pertinent information as to why it is an emergency.
  2. Permittee shall within 72 hours apply for and obtain all required permits.
  3. Permittee will demonstrate by providing logs or other reports that all work performed was in conformance with all regulations and standards as designated herein, and will further report or correct any part of the system that does not comply with this Ordinance, other applicable laws or codes.

**§ 92102.02 PERMIT CONDITIONS**

- A. Limitation: When the enforcement agency issues or otherwise approves a conditional use permit or well construction permit, pursuant to this ordinance, it may condition the permit in any manner necessary to carry out the purposes of this Ordinance.

- B. CEQA Review: The processing of a Conditional Use Permit and/or a well construction permit shall be in compliance with the California Environmental Quality Act (CEQA) and Imperial County's "Rules and Regulations to Implement CEQA, as Amended."
- C. Performance Bond: The enforcement agency may require such bond or other security as determined necessary to assure compliance with this Ordinance.
- D. License Required: All construction, reconstruction or destruction work on wells shall be by a person/firm who possesses an active California Contractor's license in accordance with Business and Professions Code, Section 7000 et. seq.
- E. Disposal of Drilling Fluids/Materials: The well driller shall be required to provide for the safe and appropriate handling and disposal of all drilling fluids or other drilling materials associated with the permitted project.
- F. Abandoned Wells: As a condition to any approval for a permit for the construction or reconstruction of a well, any abandoned well(s) on the property shall be destroyed in accordance with the standards provided in this Ordinance.
- G. Posting of Permit: It shall be the responsibility of the well driller to maintain a copy of the approved permit on the drilling site during all stages of construction or destruction of a well and have then available for general inspection.
- H. Provide Copies: It shall be the responsibility of the well driller to maintain and provide copies to the Planning & Development Services Department, Public Works Department and Environmental Health Department of all drilling logs, testing reports and/or abandonment logs.

**§ 92102.03 PERMIT DENIAL**

The enforcement agency shall deny any application for a permit if, in its judgment, issuance of a permit is not in the public interest, violates health and safety concerns, or in compliance with the intent of this Ordinance.

**§ 92102.04 EXPIRATION OF PERMIT**

The permittee shall commence work authorized by the permit within 180 days from the effective date of issue and shall complete the work within one (1) year from date issued. The enforcement agency may grant a one-time extension for a period of up to one year if requested in writing by applicant at least 60 days prior to the expiration of the permit.

All permits that have not received a final inspection approval from the enforcement agency within one year from date of issue shall expire unless an extension is granted by the Planning & Development Services Department. If a permit has expired, no further work shall be done until a new permit is requested, approved, and issued to applicant.

**§ 92102.05 SUSPENSION AND REVOCATION**

- A. Circumstances for such action: Enforcement agency may suspend or revoke any permit issued pursuant to this Ordinance, whenever it finds that the permittee has violated any of the provisions of this Ordinance, or has misrepresented any material fact in his/her application or any supporting documents for such a permit. Prior to ordering any such suspension or revocation, the enforcement agency shall give permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be before the enforcement agency, the director, or his designated representative.
- B. Consequences: No person whose permit has been suspended or revoke shall continue to perform the work for which the permit was granted until, in case of suspension, such permit has been reinstated by the enforcement agency.

- C. Additional Work: Upon suspending or revoking any permit, the enforcement agency may order permittee to perform any work reasonably necessary to protect the ground water from pollution or contamination, if any work already done by permittee has left a well in such a condition as to constitute a hazard to the quality of the ground water. No permittee or person who has obtained a permit issued pursuant to this Ordinance shall fail to comply with such order.

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### DIVISION 21: WATER WELL REGULATIONS

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#### CHAPTER 3: WELLS

§ 92103.00	REGISTRATION OF WELL
§ 92103.01	REPORTS
§ 92103.02	WELL STANDARDS
§ 92103.03	VARIANCES
§ 92103.04	SPECIAL GROUND WATER PROTECTION
§ 92103.05	APPEALS
§ 92103.06	RIGHT OF ENTRY AND INSPECTION

#### § 92103.00 REGISTRATION OF WELL

Any person who uses a new or existing well shall first register said well with the Imperial County Planning & Development Services Department. If a well is under an active conditional use permit, the well shall be deemed to be registered. Any well that is not under an Imperial County CUP shall be registered with the Planning & Development Services Department and the State pursuant to California Water Code, Section 13750.

An application to register any well shall be filed with the Planning & Development Services Department and said application shall contain all information required upon said form.

#### § 92103.01 REPORTS

Completion Reports: The driller shall provide the enforcement agency a completion report within 30 days of the completion of any well construction, reconstruction, or destruction job.

A. Submittal of State "Report of Completion": A copy of the "Report of Completion" (Driller's well log) required by California Water Code, Section 13751, shall be submitted by the well driller to the enforcement agency within 30 days of construction or destruction of any well (except driven wells). This report shall document that the work was completed in accordance with all applicable standards and additional permit conditions.

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

B. Confidentiality of Report: With the exception of the well driller's name, the date the well was drilled and the well yield, all information contained in this report shall remain "Confidential".

C. Other Agency's Requirements: Nothing in this Ordinance shall be deemed to excuse any person from compliance with the provisions of California Water Code, Section 13752, relating to notices and reports of completion or any other federal, state, or local reporting regulations.

#### § 92103.02 WELL STANDARDS

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

A. The California Department of Water Resources Bulletin 74-81 entitled, "Water Well Standards, State of California", except as modified by subsequent supplements or revisions issued by the Department of Water Resources.

- B. The California Department of Water Resources Bulletin 74-90 and any subsequent supplements or revisions issued by the Department of Water Resources.
- C. The following factors, to the extent necessary to avoid conditions of overdraft, subsidence, well interference, water quality degradation, or other environmental degradation:
  - 1. The type of use or uses served.
  - 2. The number of users served.
  - 3. Wasteful or inefficient use.
  - 4. Water conservation activities.
  - 5. Reasonable need of the extractor and other affected water users.
  - 6. The quality of groundwater.
  - 7. The affected groundwater basin or sub-basins.
  - 8. Environmental impact as determined through the CEQA review.
  - 9. Any other factors that the Planning & Development Services Department reasonably believes it should consider in order to reach an equitable result within the entire County in accordance with the provisions of this Ordinance, and of California Law.

**§ 92103.03 VARIANCES**

The enforcement agency shall have the power under the following specified conditions to grant a variance from any provision of the standards referred to above and to prescribe alternate requirements in their place. There is no appeal from a denial of a variance request, unless:

- A. Special Circumstances: There must be, in a specific case, special circumstances where practical difficulties or unnecessary hardship would result from the strict interpretation enforcement of any standard. Economic expense will not be considered "unnecessary hardship".
- B. Intent of Ordinance not Compromised: The granting of any variance is to be consistent with the purpose and intent of this Ordinance and State Law.

**§ 92103.04 SPECIAL GROUND WATER PROTECTION**

The enforcement agency may designate areas where potable ground water quality is known to exist and where a well will penetrate more than one aquifer. The enforcement agency may require in these designated areas special well seals to prevent mixing of water from several aquifers. Where an applicant proposes well construction, reconstruction, alteration, repair or construction work, in such an area, the enforcement agency may require the applicant to provide a report prepared by a registered geologist or a registered civil engineer that identifies all strata containing poor quality water and recommends the location and specification of seal or seals needed to prevent entrance of poor quality water or its mitigation into other aquifers.

The enforcement agency may take such other action as it determines reasonably necessary to protect the degradation of both quantity and quality of any known aquifer resulting from the installation, modification, refurbishing, construction, repair or destruction of well or from improper well operations, maintenance, and/or from excessive pumping capacity.

**§ 92103.05 APPEALS**

- A. Any person whose application for a permit has been denied, granted conditionally, or whose permit has been suspended or revoked, may appeal said determination to the Imperial County Planning Commission, provided the appeal is in writing, within ten (10) days after any such denials, conditional granting, suspension, or revocation. Such appeal shall specify the grounds upon which it is being requested and shall be accompanied by a filing fee as set forth in the County's Codified Ordinances. The Planning Director shall set such an appeal for hearing before the Planning Commission at the earliest practicable time, and shall notify the appellant and all interested parties in writing at least ten (10) days prior to the hearing.
- B. After such hearing the Planning Commission may uphold, or may reverse, wholly or in part, or may modify any such determination.
- C. The decision of the Planning Commission shall be final unless it is appealed to the Board of Supervisors within ten (10) days from the date of the Planning Commission's decision.
- D. Any decision made by the Board of Supervisors on an appeal from the Planning Commission shall be final.

**§ 92103.06 RIGHT OF ENTRY AND INSPECTION**

Representatives of the enforcement agency 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 representative shall first present proper credentials and demand entry. If the same is unoccupied, the representative shall first make a reasonable effort to locate the owner or other person having charge or control of same representative shall have recourse to such remedies as are provided by law to secure entry.

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CHAPTER 4: ENFORCEMENT

§ 92104.00 ENFORCEMENT

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- A. Penalty: Any person who commences work for which a permit is required by this Ordinance, without first obtaining such permits and approvals, shall be required, if subsequently granted a permit, to pay double all standard permit fees. The payment of such double fee shall, however, in no way excuse compliance with this Ordinance or other applicable codes.
- B. Violations is a Misdemeanor: Any person who violates any of the provisions of this Ordinance is guilty of a misdemeanor and upon conviction, thereof, shall be punishable by a fine of, not to exceed, \$500.00 and/or by imprisonment in County Jail for a time not to exceed six (6) months.
- C. Civil Enforcement - Nuisance
  - 1. "Notice of Violation" Recordation: Whenever the enforcement agency determines that a well: (1) has not been completed in accordance with a well permit or the plans and specification relating thereto or (2) has been constructed without the required permit, or (3) has not been properly abandoned in accordance with the standards, the enforcement agency may record a "Notice of Violation" with the Office of the County Recorder.
  - 2. Removal of Violation Notice: The enforcement agency shall submit a removal of the "notice of Violation" to the County Recorder when: (1) it is determined by the enforcement agency or the Board of Supervisors, after review, that no violation of this Ordinance exists; or (2) all required and corrective work has been completed and approved by the enforcement agency.
- D. Remedies Cumulative: The remedies available to the County to enforce this Ordinance are in addition of any other remedies available under this Ordinance or other statute, and do not replace or supplant any other remedy, but are cumulative thereto.

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