

**TOWN OF SAN ANSELMO
ORDINANCE NO. 938**

**AN URGENCY ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING TITLE 9 OF THE
SAN ANSELMO MUNICIPAL CODE TO ADD CHAPTER 20 ESTABLISHING STANDARDS
REGULATING THE CONSTRUCTION OF WATER WELLS AND THE USE OF PRIVATE
WATER SUPPLIES**

The Town of San Anselmo does ordain as follows:

SECTION 1. Title 9 of the San Anselmo Municipal Code is amended to add Chapter 20 which is hereby adopted to read:

Sections:

9-20.01	Purpose of provisions
9-20.02	Policy
9-20.03	Definitions
9-20.04	Design Standards
9-20.05	Permit - Required for construction, remodeling, or abandonment
9-20.06	Permit - Application requirements
9-20.07	Permit - Issuance conditions
9-20.08	Permit - Contents - Filing and recordation
9-20.09	Common Water Supply Restrictions
9-20.10	Inspection
9-20.11	Well Permit issuance prohibited when
9-20.12	Enforcement - Notice of violation - Public Works Director authority
9-20.13	Appeal procedures - Town Council authority
9-20.14	Violation - Penalty
9-20.15	Abatement of nuisance
9-20.16	Notice to abandon wells
9-20.17	Pollution of water channels
9-20.18	Wells along creek beds to be set back
9-20.19	Use

Section 9-20.01 Purpose of provisions. The purpose of this chapter is to protect groundwater, watercourses, and surface water by regulating the construction, placement, reconstruction and remodeling of water wells, water supply sources, test holes, and existing watercourses within the Town.

Section 9-20.02 Policy.

A. The Council finds that improperly constructed, operated or maintained water wells, watercourses, water supply sources can affect the public health adversely.

B. Consistent with the duty to safeguard the public health and welfare of the Town, it is declared to be a policy of the Town to require the location, construction and repair of water wells and other water systems to conform to California State Department of Water Resources Standards as noted in DWR Bulletin Numbers 74-81 and 74-90 and additional supplements and as required in California Water Code Section 13801. Additionally, all rules and regulations established by Marin County Code #2598 and contained in Section I, Chapter 7.28 (except Section 7.28.020, 7.28.026, 7.28.045, and 7.28.046) shall apply (except as modified herein), copies of which will be on file in the Building Department.

Section 9-20.03 Definitions.

A. "Adequate water" means the minimum amount of water supplied from a source or sources for potable purposes for a proposed use or uses as established in the current "Rules and Regulations for Establishing Minimum Domestic Water Supply Requirements" pursuant to Chapter 7.28 of the Marin County Code or as may be modified under Section 9-20.07 B. of this Chapter.

B. "Approved water system" means a water system for domestic human and/or domestic irrigation which has been inspected, approved and has a well permit issued by the Town and the County of Marin, meeting the standards of Department of Water Resources Bulletin No. 74 and which meets the permit requirements by the Town and complies with the physical, bacteriological and chemical standards established by the State Department of Public Health and the United States Environmental Protection Agency.

C. "Construction of water wells" means all acts necessary to obtain groundwater by wells, including the location and excavation of the well, and including the installation of pumps and pumping equipment.

D. "Groundwater" means that part of the subsurface water which is in the zone of saturation.

E. "Health hazards" means any conditions, devices or practices in the water supply system and its operation which create, or may create, a danger to the health and well-being of any person.

F. "Potable water" means water complying with the physical bacteriological and chemical standards established by the State Department of Public Health and the United States Environmental Protection Agency.

G. "Surface water" means water that is derived either from natural or manmade stream flow or impoundment above zone saturation.

H. "Test Wells" means wells constructed for the purpose of obtaining the information needed to design a well prior to its construction. Such wells are not to be confused with "test holes" or "exploration holes" which are temporary in nature (i.e., uncased excavations whose purpose is the immediate determination of existing geologic and hydrologic conditions). Test wells are cased and can be converted to observation or monitoring wells and under certain circumstances to production wells. For purposes of this Chapter the term "well" shall also mean "test well".

I. "Water system" means any water source, treatment facility, storage facility, or distribution system.

J. "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, extraction, or artificial recharge of groundwater.

K. All definitions contained in California Department of Water Resources Bulletin Numbers 74-81 and 74-90 and Chapter 7.28 of Section I of the Marin County Code apply.

Section 9-20.04 Design Standards. The design and construction of domestic water systems shall be in accordance with the current "Rules and Regulations for Establishing

Minimum Domestic Water Supply Requirements" pursuant to the San Anselmo Municipal Code; State Department of Water Resources Regulations contained in DWR Bulletin 74-81 and 74-90; and applicable regulations contained in County Code Chapter 7.28 subsequent revisions.

Section 9-20.05 Permit - Required for construction, remodeling, or abandonment.

No person shall construct, remodel, or abandon a well or test hole without first submitting an application to, and receiving a permit from, the Director of Public Works. Thereafter, no person shall construct, remodel, or abandon a well without submitting an application to, and receiving a permit from, the County of Marin. All well activities, including the method of abandonment, shall be in accordance with the Department of Water Resources Bulletin No. 74.

Section 9-20.06 Permit - Application requirements.

All applications for approval shall be on a form prescribed by the Director of Public Works and the Marin County Health Officer. Such application shall be accompanied by a reconnaissance level study to address subsidence.

Section 9-20.07 Permit - Issuance conditions.

A. Findings and Process: If, after investigation, the Public Works Director, determines that the proposed well is in accordance with the purpose of this Chapter, and will not be injurious to the public health, safety or welfare, he or she shall approve the application and issue a well permit upon payment of a Building Permit and any plumbing and electrical permit fees as required. Thereafter the applicant shall apply to the County of Marin for a drilling permit for construction of the well. If the intended use of the well is for potable water, the well must meet established water quality and source yield standards.

B. Local modifications to Rules and Regulations Establishing Minimum Domestic Water System requirements pursuant to Chapter 7.28 of the Marin County Code and to DWR Bulletins 74-81 and 74-90:

1. Source yield for potable water systems for one residence shall be those required for two residences.
2. Only one well shall be allowed for each residential property.
3. Source yield for domestic water systems for non-residential uses shall be those required for two like non-residential uses.
4. Hold tanks, pressure tanks (except those less than 60" high and 36" wide) and above ground pumps shall be considered structures within zoning regulations of the Town of San Anselmo. Tanks which are completely buried and which are partially buried with the top not more than 3 feet above existing grade shall not be considered structures.
5. All holding tanks, pressure tanks and pumps shall be adequately screened to reduce their visual impact.
6. All pressure tanks and pumps shall be adequately insulated to reduce their noise levels.
7. All well sources shall have **minimum setbacks** as specified below:

From property line:	5 feet.
From public or private sewer pipeline of approved watertight piping and joining materials:	25 feet.
From other public or private sewer pipe line:	50 feet.
From subsurface disposal field:	100 feet.
From septic tank or other subsurface storage tanks (except water tanks):	100 feet.
From animal and fowl enclosure:	100 feet.

A well may be installed closer than the minimum distances prescribed above if the Director of Public Works or the Health Officer finds that strict compliance is impractical because of unusual conditions and if it is determined that special standards may be applied to the well construction so that no danger of contamination or pollution to the ground water will result. Such special standards of construction shall be approved by the Health Officer or the Director of Public Works and additional inspections may be required to assure compliance with such special standards.

8. All tank and pump installation shall comply with the Uniform Building Code, Uniform Plumbing Code and National Electric Code.
9. When a permit for use of potable water is granted for construction of a well for a single family dwelling, the owner shall agree to install all connecting pipes and appurtenances for MMWD water before a certificate of occupancy is issued.
10. For any potable water supply, the owner shall connect to MMWD as soon as water supplied by MMWD is available. Availability of water shall be based on physical or policy constraints as determined by the Director of Public Works.

Prior to issuance of a well permit the owner must apply to MMWD for new water service connection and must take all steps necessary to secure connection as soon as possible. To guarantee such future connection, owner shall, prior to the issuance of any occupancy permit or final inspection approval, deposit with the Town an amount calculated to be the per unit connection charge for each new connection (meter) that will be imposed by MMWD upon eventual connection. Except as provided below, this deposit shall be refunded pro rata to the then owners of the properties, with interest earned (minus administration costs) upon satisfactory connection to MMWD. In the event owner ceases to pursue all steps necessary for eventual connection, or fails to connect to MMWD upon the approval of a new service connection, the Town shall be entitled to seek a court injunction mandating connection, and shall apply the deposit towards all fees and costs incurred in bringing such action, and shall be entitled to recover all additional costs not satisfied by the deposit from owner. The owner shall be liable for all

fees and costs incurred by the Town once enforcement has begun, even though he or she subsequently agrees to make the connection.

11. If well water is to be used for fire suppression, all tanks and pump installation shall comply with Uniform Fire Code (UFC) and National Fire Protection Association (NFPA) Title 22 standards including, but not limited to, storage, water pressure and flow, auxiliary backup power source, and access to and maintenance of tank and pump system.

C. All lab testing for bacteriological, general mineral, inorganic chemicals, and general physical analysis shall be paid by the permit holder.

D. Any person applying for a well permit pursuant to this Chapter shall agree in writing to indemnify and hold harmless the Town, its employees, assigns and successors-in-interest from any and all claims, responsibility, liability, or obligations whatsoever including, but not limited to, the failure to provide adequate yield or meet established water quality standards arising out of the Town's issuance of a well permit for the operation of a well upon any property located within the Town. Such agreement shall be recorded.

Section 9-20.08 Permit - Contents - Filing and recordation. A copy of the permit issued by the County of Marin hereunder shall be filed with the Marin Municipal Water District, and a copy shall be recorded with the Marin County Recorder. Attached to the copies shall be the description of the property on which the well is located. The contractor shall file a well data report with the Town of San Anselmo Building Department at the completion of work on a form prescribed by the Director of Public Works.

Section 9-20.09 Common Water Supply Restrictions. A well shall serve no more than one lot.

Section 9-20.10 Inspection.

A. The Public Works Director, or his or her designee, and the County of Marin Health Officer are authorized to inspect any water well, abandoned water well, water system or pump installation, and may, at reasonable times, enter upon and shall be given access to any premises for the purpose of such inspection.

B. Upon the basis of such inspection, if the Director of Public Works, or his or her designee, or the County Health Officer finds that any laws have not been complied with, or that health hazard exists, he or she shall disapprove the well, water system or pump installation. If disapproved, no such well, water system or pump installation shall thereafter be used until brought into compliance and any health hazard is eliminated.

Section 9-20.11 Well Permit issuance prohibited when. Nothing herewith shall be construed to allow the issuance of a well permit without full compliance with the provisions of this Chapter and other applicable provisions of this Code.

Section 9-20.12 Enforcement - Notice of Violation - Public Works Director authority.

A. Whenever the Public Works Director has reasonable grounds for believing that there has been a violation of this Chapter, applicable state laws or any other relevant law or code, he or she shall give written notice to the person or persons alleged to be in violation. Such notice shall identify the provisions of law alleged to be violated and the facts alleged to constitute such violation.

B. Such notice shall be served personally, or by firmly affixing a copy thereof on the property where the violation has occurred, or by certified mail to the owner of record, lessee agent or representative, or other person in charge of the premises. The notice may be accompanied by an order of the Director of Public Works requiring described remedial action, which, if taken within the time specified in such order, not to exceed thirty (30) days. Such order shall become final unless a request for hearing, as provided in Section 9-20.13, is made within ten (10) days from the date of service of such order.

Section 9-20.13 Appeal procedures - Town Council authority.

A. Person Entitled to Hearing. Any applicant or person aggrieved by any determination, decision, permit denial or issuance or similar action taken by the Director of Public Works under the provisions of this chapter may appeal the action to the Town Council.

B. Filing Format and Timing of Appeals. Appeals shall be addressed to the Town Council in writing and shall state the basis of the appeal. Appeals shall be filed in the office of the Town Clerk within ten (10) working days after notification of the action or decision from which an appeal is taken. A hearing time and date shall be set in accordance with Section 10-1.05 of this Chapter.

Section 9-20.14 Violation - Penalty. Violations of this Chapter may be punished and/or abated as provided in this code or by state law.

Section 9-20.15 Abatement of Nuisance. In addition to the penalties provided in Section 9-20.14, any domestic water system or supply operated, or used in violation of any of the provisions of this section, or of the San Anselmo Municipal Code or in accordance with any other provisions of applicable law is a public nuisance and may be abated in accordance with any other provision of applicable law.

Section 9-20.16 Notice to abandon wells. Whenever it appears to the satisfaction of the County Health Officer that any well, the water of which is used for domestic purposes, has become polluted or in any way rendered unsafe for domestic or drinking purposes, or has become otherwise prejudicial to health or dangerous to life, the Health Officer shall give to the owner or his agent, lessee, tenant or other person in charge of the well, written notice to abandon it within a time to be specified in the notice. If the notice is not complied with, the Director of Public Works of the Town shall cause the well to be abandoned at the cost and expense of the owner.

Section 9-20.17 Pollution of water channels. It is hereby declared to be a nuisance, and it is unlawful for any person to dump, put or place in, or on, or allow to run into, or on, any public reservoir, or the bank, border or margin, or into any water pipe, storm drain pipe, aqueduct, canal, stream, water, watercourse, or waterway within the Town, any animal, vegetable, or mineral substance, or to do, perform or commit any act or thing which will pollute the purity and wholesomeness of any water or watercourse.

Section 9-20.18 Wells along creek beds to be set back. Shallow water wells which draw water from the underflow of the stream could have an effect on the surface flow of the stream. Therefore, drilling of wells along creeks within the Town of San Anselmo shall be regulated and no well can be drilled within 100 feet of either San Anselmo Creek or Sleepy Hollow Creek.

Section 9-20.19 Use. In no case shall water taken from a site in San Anselmo be transported out of the Town limits.

SECTION 2. If any section, subsection, sentence, phrase, clause or word of this ordinance is declared invalid by a court or competent jurisdiction, said finding shall not invalidate any other portion or portions of this ordinance.

SECTION 3. Declaration of Facts Constituting Urgency:

1. On February 8, 1993, an application for a well permit was filed with the Town of San Anselmo (Town) by Robert Yeakey to construct a potable well at 80 South Oak.
2. Mr. Yeakey is under a time constraint to construct an approved house plan. Such plan was approved in December 1988 subject to upgrading the public water system. Mr. Yeakey, in conjunction with several neighboring property owners, initially applied to the Marin Municipal Water District (MMWD) for construction of a water tank. Mr. Yeakey has received several time extensions from the Town. The last time extension states that he must commence construction by April 15, 1993.
3. In order to ensure a reliable water supply of potable water to residences of San Anselmo, it is the Town policy, expressed through this ordinance, to abandon potable water wells and require connection to the MMWD water system as soon as such water is available. Further, it is Town policy that water wells, prior to connection to the MMWD water system, provide twice the water yield as would be required for one residence or similar non-residential use under the Marin County Domestic Water Supply Ordinance.
4. Water extractions from ground water sources in perpetuity may result in overdrafting the supply of water for downslope properties and natural vegetation. Such overdrafting could lead to changes in mineral content and may exceed maximum concentration levels of minerals and affect physical water characteristics, such as water quality, turbidity, color, and odor. This ordinance will aid in preventing such overdrafting and pollution.
5. The immediate preservation of the public health and safety require this ordinance take effect immediately so that well construction can proceed consistent with the health and safety protections imposed by this ordinance.

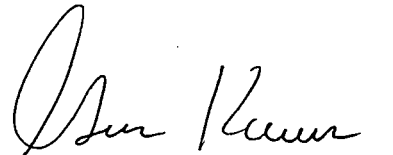
SECTION 4.

This ordinance was adopted on February 23, 1993 to take effect immediately.


AYES: Breen, Chignell, Kanis, Zaharoff

NOES: Yarish

ABSENT: none


Gus Kanis, Mayor

ATTEST:


Caroline Foster, Town Clerk