

## **Chapter 8.19 - SOLID WASTE MANAGEMENT—PROHIBITIONS**

### **8.19.010 - Unsanitary conditions prohibited.**

It is unlawful for any person to maintain, permit or allow to exist upon his property or premises, or in or upon any property or premises which he is then and there occupying or leasing, any kind of water closet, privy, cesspool or other container for refuse matter in an unsanitary condition.

(Ord. No. 18-001, § 1, 1-9-2018; Prior code, § 440)

### **8.19.020 - Reserved.**

### **8.19.030 - Water closet, privy, cesspool—Contents removal.**

It is unlawful for any person to remove the contents of any water closet, privy or cesspool, except in a water-tight container and so covered that the same shall not be exposed to flies or offensive to the senses, and without having first obtained a written permit therefor from the health officer in accordance with [Chapter 8.50](#) of this code.

(Ord. No. 18-001, § 1, 1-9-2018; Ord. 88-020, § 2; prior code, § 441.1)

### **8.19.040 - Sanitary facilities—Discharge into waterways.**

It is unlawful for any person to hereafter establish or install any sanitary facility which is designed to or which does discharge any contents or effluent, whether previously filtered or otherwise treated or not, from any privy, water closet, cesspool or septic tank into any river, stream, canal, lake or other surface body of water, or discharge the same in such near proximity thereto that the same might reasonably be expected to enter such waters by seepage, percolation, drainage or otherwise and in no event within one hundred feet of the high water mark of such body of water.

(Ord. No. 18-001, § 1, 1-9-2018; Prior code, § 441.2)

### **8.19.050 - Open pits and excavations prohibited.**

It is unlawful for any person to maintain or to permit to exist upon lands under his control any well or cesspool of whatever depth or dimension or any other pit or excavation within the earth of more than five feet in depth and being less than four feet across in its greater dimension without having the same capped or covered in a secure manner; provided further, that any such well, cesspool, pit or excavation which has been permanently abandoned shall be completely filled in.

(Ord. No. 18-001, § 1, 1-9-2018; Prior code, § 442)

### **8.19.060 - Scavenging prohibited.**

- A. No person shall open, look into, search through or remove any of the contents of any waste receptacle.
- B. For purposes of this section, "solid waste receptacle" shall mean any bin, automatic lift container or any other type of receptacle used for the deposit, storage, collection or transport of garbage, litter, junk, debris, refuse, swill, rubbish, waste matter,

putrescible waste, hazardous waste, infectious waste, recyclable materials, or garden refuse.

- C. This section shall not apply to the following persons:
  - 1. Any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;
  - 2. Any persons acting with the consent of any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;
  - 3. Any private collector or any contractor of a private collector, that owns or maintains the solid waste receptacle or is responsible for hauling away its contents, who is acting in accordance with their duties as such; or
  - 4. Any employee or contractor of any city, county, state or federal government agency, who is acting in accordance with their duties as such.
- D. Notwithstanding any other provision of this Code, any person violating this section is guilty of an infraction. The first violation of this section in any twelve-month period shall be punished by a fine of one hundred dollars. The second violation of this section in the same twelve-month period shall be punished by a fine of two hundred dollars. The third and each subsequent violation of this section within the same twelve-month period shall be punished by a fine of three hundred dollars for each violation.
- E. This section shall apply and be enforced only in the following area of the unincorporated county: Fig Garden policing district boundaries.  
(Ord. No. 18-001, § 1, 1-9-2018; Ord. No. 17-017, § 2, 10-31-2017; Ord. No. 16-015, § 2, 9-27-2016)

### **8.19.070 - Liquid Waste.**

- A. The following words and terms used in this chapter are defined for the purpose thereof as follows:
  - 1. "Chemical Toilet Waste Hauler" means any person who engages in the business of collection and/or transportation of chemical toilet waste.
  - 2. "Grease Hauler" means any person who engages in the business of collection and/or transporting of inedible kitchen grease, kitchen grease or grease traps.
  - 3. "Liquid Waste Hauler" means any person who engages in the business of collection and/or transportation of pumping or cleaning of septic tanks, holding tanks chemical toilets, kitchen grease, grease traps.
  - 4. "Septic Tank Waste Hauler" means any person who engages in the business of collection and/or transportation of pumping or cleaning septic tanks and/or its components, holding tanks, leach lines, seepage pits.
- B. Any person or firm engaged in the business of pumping or cleaning septic tanks and/or its components, holding tanks, kitchen grease, grease traps, or providing chemical toilets must operate under permit from the Department of Public Health. It is unlawful for any person to clean sewage disposal systems/inedible kitchen grease tanks or to dispose of or aid in the disposal of the cleanings therefrom (transport), who does not possess a valid permit to operate issued by the Department of Public Health.
- C. Individual applications and fees are required for the company/business and each vehicle. Upon receipt of the completed application and applicable fees, the Department of Public Health – Environmental Health Division will inspect the pumping vehicle. The

annual permit registration fee is charged to persons authorized to perform services as outlined in Section 8.19.070(B).

- D. Each pumper who transports any septage/grease shall deposit said waste to an approved wastewater treatment plant (POTW) or approved facility. Cleaning operations must be conducted in a manner that will not endanger human health or the environment. Any spillage of sewage must be cleaned immediately.
- E. The following inscription/labeling shall be legibly affixed, in a conspicuous place, on both sides of the vehicle or tank in letters at least 3 inches high: name, address and phone number of the person or business; and fluid capacities in gallons for the vehicle. Once permitted, the Department of Public Health will issue a permit to operate. A valid permit to operate shall be affixed to the rear of the tank or vehicle at all times.
  - 1. All tanks used for hauling sewage and grease shall be of metal construction throughout, that is welded or riveted, and shall be water-tight and splash proof. Tanks shall be properly baffled to prevent splashing and be fitted with watertight covers or manholes. A leak proof gate valve must be provided on each tank for the discharge or lading of the contents. Vehicles must have a leak proof screw plug or cap at all times.
  - 2. Each vehicle shall be equipped with a reliable gauge to indicate the actual volume of sewage and/or grease in the tank, measured in gallons.
  - 3. Each vehicle shall be equipped with necessary hoses, both for pumping and cleaning of equipment, with adequate length to extend into an approved manhole, grease trap or dump station. The pumping hose shall be fitted with watertight connections to prevent spillage. The hoses are to be cleaned on the premises without any spillage of contents. A minimum 5/8-inch water hose, 50 feet in length shall be carried for cleaning purposes.
  - 4. Each pumping vehicle shall have the following items included on the truck at all times: personal protection equipment (PPE) including gloves, rubber boots and safety glasses; containment tools (PIGS); and an absorbent material (e.g., kitty litter) to contain wastewater; a shovel; garbage bags; a 5-gallon bucket; bleach and lime.
- F. Pursuant to California Health and Safety Code, Section 117435(a), all sewage pumping (septic systems, septic tanks) businesses shall file with the health officer, or his or her duly authorized representative, a report specifying the pumping activities over a given month. All persons shall submit a typed or legibly printed report of pumping activities to the Department of Public Health or the receiving wastewater treatment plant (POTW), who will maintain the reports. Said reports must be submitted monthly for the preceding month's activities. Reports shall be specific to pumping activities and include the date, name and location of each establishment where a system has been cleaned, and the total number of gallons pumped within the County.
- G. When an operator of a sewage pumping, grease pumping or toilet rental business is found in violation of any provision of this chapter, shall be guilty of a misdemeanor and could have their permit suspended or revoked pursuant to Section 8.50.155.

## Chapter 8.50 - ENVIRONMENTAL HEALTH PERMITS AND INSPECTION FEES<sup>[9]</sup>

*Footnotes:*

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*Editor's note— Prior ordinance history—Ords. 610, 626, 0-81-022 and 87-007.*

### 8.50.010 - Declaration of findings.

The board of supervisors of the county finds and declares as follows:

- A. That certain state statutes, orders, quarantines, rules or regulations, and local ordinances relating to public health require that permits to operate be issued to certain businesses and activities;
- B. That the county ~~health department~~Department of Public Health enforces said statutes, orders, quarantines, rules, regulations and ordinances relating to public health, both within the ~~unincorporated~~unincorporated and incorporated areas of the county, to ensure that such businesses and activities comply;
- C. That in order to enforce said statutes, orders, quarantines, rules relations and ordinances the county requires all businesses and activities which are subject to environmental health inspections and are specified in this chapter, to secure and maintain permits to operate from the county ~~health department~~Department of Public Health. Such permits may revoked or withheld by the county ~~health department~~Department of Public Health for cause;
- D. That the expenses incurred by the county ~~health department~~Department of Public Health in the enforcement of statutes, orders, quarantines, rules and regulations prescribed by state officers or departments, are not met by any fees prescribed by the state;
- E. That the expenses incurred by the county ~~health department~~Department of Public Health in the enforcement of said statutes, orders, quarantines, rules, regulations and ordinances, and in providing other related services, are reasonable and necessary therefor.

(Ord. 88-020, § 4)

### 8.50.020 - Purpose.

The purpose of this chapter is to establish a permit and inspection fee system for certain businesses and activities specified herein which are subject to state statutes, orders, quarantines, rules or regulations and local ordinances relating to public health, in order to reimburse the county for the expense of enforcing said statutes, orders, quarantines, rules, regulations and ordinances.

(Ord. 88-020, § 4)

### 8.50.030 - Area of application.

The ~~E~~environmental ~~H~~health permits and inspection fees described in this chapter shall be required for any business or activity listed in Sections [8.50.050](#) and [8.50.055](#) of this chapter and located or operating within the geographic area in which the ~~health department~~Department of Public Health enforces state and local statutes orders,

quarantines, rules, regulations and ordinances relating to public health in the unincorporated area of Fresno County or within the incorporated area of any city within the county.

(Ord. 93-007, § 1; Ord. 88-020, § 4)

### 8.50.040 - Definitions.

As used in this chapter:

- A. "Auditor-controller" means the ~~C~~county ~~A~~auditor-~~C~~ontroller/~~T~~reasurer-~~T~~ax Collector or a duly authorized representative.
- B. "Enforcement officer" means a person employed and authorized by the ~~Department of Public Health~~health department to conduct environmental health inspections.
- C. "Environmental ~~Health Division Manager~~health director" means the ~~director of the Division Manager who provides oversight of the e~~Environmental ~~H~~health ~~Division, system of the department of health of the county~~ or a duly authorized representative.
- D. "~~Health department~~Department of Public Health" means the ~~C~~county ~~Director of the Department of Public Health~~director of health, health officer, or their duly authorized representatives.
- E. "~~Hearing Officer~~" means the ~~C~~county ~~D~~irector of the ~~county~~Department of Public Health or their duly authorized representative~~his designee~~.
- F. "Permit" means a written authorization to operate a specific business and activity at a specific location or for a specific vehicle, issued to a person by the ~~Department of Public Health~~health department in accordance with this chapter.
- G. "Permit fee" or "inspection fee" means any payment of money for expenses incurred by the ~~Department of Public Health~~health department in the regulation of operating permits and enforcement of state and local statutes, orders, quarantines, rules, regulations and ordinances relating to public health and not met by fees otherwise prescribed by said statutes or ordinances.
- H. "Person" means any individual, association, partnership, firm or corporation.

(Ord. 88-020, § 4)

### 8.50.045 - Permit required.

- A. It is unlawful for any person, without first having obtained a written permit from the ~~Department of Public Health~~health department, to engage in the businesses and activities set forth under [Section 8.50.050](#).
- B. All permits issued to a person to engage in a business and activity at a specific location or for a specific vehicle as required herein, shall remain in effect for a period of one year unless otherwise specified by the ~~health department~~Department of Public Health or provided in this chapter or unless revoked pursuant to [Section 8.50.155](#). ~~Underground storage tank permits shall remain in effect for a period of five years unless revoked pursuant to Section 8.50.155.~~ Thereafter it is unlawful for a person to

continue to engage in such businesses and activities unless a new permit is issued by the ~~health department~~Department of Public Health as provided herein.  
(Ord. 90-008, 1; Ord. 88-020, § 4)

### **8.50.050 - Businesses and activities subject to permits.**

- A. Body Art. The terms “body art,” “body art facility,” and “practitioner” shall have the same meanings as set forth in the California Health and Safety Code, Division 104, Part 15, Chapter 7, Section 119301 Safe Body Art Act – Definitions.
- B. Community Event. The term “community event” shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113775 Community Event.
- C. Cottage Food. The term “cottage food operation” shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113758 Cottage Food Operation.
- D. Food Facility. The term “food facility” ~~means all of the following:~~
  - ~~1.~~  
~~Any room, building, place or portion thereof, maintained, used or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, salvaging or otherwise handling food at the retail level, including all food establishments and facilities required by state law to maintain local health department permits;~~
  - ~~2.~~  
~~Retail food service vehicle, produce stand or market, satellite food distribution facility, stationary or mobile food preparation unit;~~
  - ~~3.~~  
~~Any itinerant or temporary food facility operating at a fixed location in conjunction with a single event or celebration for a period of time greater than three days but not exceeding twenty-one days in any ninety-day period. Any permit issued to a person for such facility shall be valid only for the period of the event for which it is issued;~~shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113789 Food Facility.
- E. Hazardous Materials Compliance. The term “hazardous materials compliance” means the generation, production, storage, treatment or other handling of hazardous materials and/or hazardous waste.
  - 1. Aboveground Petroleum Storage Act (APSA) as required by HSC, Division 20, Chapter 6.67 and 40 CFR Part 112.
  - 2. California Accidental Release Prevention (CalARP) Program as required by HSC, Division 20, Chapter 6.95, Article 2 and CCR, Title 19, Division 2, Chapter 4.5.
  - 3. Hazardous Material Release Response Plans and Inventories as required by HSC, Division 20, Chapter 6.95 and CCR, Title 19.
  - 4. Hazardous Waste Generators as required by HSC, Division 20, Chapter 6.5 and California Code of Regulations (CCR), Title 22, Division 4.5, Chapters 10-45.
  - 5. Hazardous Waste On-Site Treatment as required by HSC, Division 20, Chapter 6.5 and CCR, Title 22, Division 4.5, Chapters 10-45.

6. Underground Storage Tanks as required by HSC, Division 20, Chapter 6.7, Sections 25280-25296; and 25298-25299.6 and CCR, Title 23, Division 3, Chapter 16, Sections 2610-2717.7.

F.

Community Event shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113775 Community Event.

4.

Temporary Food Facility shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113930 Temporary Food Facility.

Any place used in conjunction with the operations described in subdivisions (1), (2) and (3) of this subsection, including, but not limited to storage facilities for food-related utensils, equipment and materials.

Cottage Food Operation shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113758 Cottage food operation.

B.

Industrial Waste Site. The term industrial waste site means any place for the disposal of sewage, feculent matter, offal, winery slops, spillage, lees, distillery water, oils or any fluid whether of vegetable, animal or mineral origin and which has been produced or formed as a result of or incidental to the operation of any industrial plant.

C.

Organized Camp. The term "organized camp" means a site with a program of organized, supervised activities and facilities established for the primary purpose of providing an outdoor group living experience with social, spiritual, educational or recreational objectives to organized groups and associations for five days or more during one or more seasons of the year. shall have the same meaning as set forth in the California Health and Safety Code, Division 13, Housing, Part 2.4 Camps, Section 18897 Organized Camp.

D.G.

Public Swimming Pool. The term "public swimming pool" means any public swimming pool, spa and wading pool or other artificial basin used for recreative bathing wherein water remains in the facility from user to user, and all related appurtenances.

E.

Public Water System. The term "public water system" means any system for the provision of piped water to the public for human consumption that has fifteen or more service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Small public water systems with less than two hundred service connections are subject to a permit.

F.H.

Septic Cleaning and Pumping. The term "septic cleaning and pumping" means any person or firm engaged in the business of cleaning septic tanks, chemical toilets, cesspools or sewage seepage pits or the disposal of the cleanings therefrom.

L.

Solid Waste Collection Vehicle/Bin Hauling Company. The term "solid waste collection vehicle/bin hauling" means the removal of solid waste and placement in a collection vehicle or bin for transport, storage, or processing of municipal solid waste, general refuse, food/food waste, single-stream recyclables, construction/demolition debris and green waste. This residential and/or commercial service includes SB 1383 haulers, Non-Exclusive Waste Haulers Agreement (NEWHA) haulers, Exclusive Service Area Program (ESAP) haulers, and other collection services.

JG.

State Small Water System. The term "state small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than fourteen, service connections and does not regularly serve more than an average of twenty-five individuals daily for more than sixty days out of the year.

K.

Temporary Food Facility. The term "temporary food facility" shall have the same meaning as set forth in the California Health and Safety Code, Division 104, Part 7, California Retail Food Code, Section 113930 Temporary Food Facility.

H.

~~Underground Storage Tank. The term "underground storage tank" means any facility rebated in accordance with California Health and Safety Code Division 20, Chapter 6.7.~~

~~+~~

~~Water Hauler. The term "water hauler" means any person transporting water for sale in a container, tank, vehicle, mobile unit or by any other means not otherwise regulated by the state.~~

~~(Ord. 93-007, § 2; Ord. 91-007, § 1; Ord. 90-008, § 1; Ord. 88-020, § 4)~~

L.

Well, Water Well, Cathodic Protection Well, and Monitoring Well. The terms "well," "water well," "cathodic protection well" and "monitoring well" shall have the same meaning as defined in Section 13710-13713 of the California Water Code.

### **8.50.055 - Businesses and activities subject to inspection fees.**

~~Itinerant Temporary Food Facility operating at Community Events, Three Days or Less.~~

The term "~~Temporary Food Facility operating at Community Events~~ itinerant food facility, three days or less" means an ~~itinerant or~~ temporary food facility operating at a fixed location in conjunction with a single community event with the approval of the community event organizer. ~~or celebration for a period of time of three days or less.~~ Inspection fees for such facility shall be due and payable for each event.

~~(Ord. 93-001, § 6; Ord. 88-020, § 4)~~



### **8.50.070 - Imposition of fees.**

Any person who conducts or engages in any of the business or activities as defined in Sections [8.50.050](#) and [8.50.055](#) within the geographic area under the jurisdiction of the ~~health department~~[Department of Public Health](#) shall be liable to pay a fee as established by [Section 8.50.080](#) for that business or activity. Said fee shall be payable annually and shall cover a period of one year from the date payment is due unless otherwise specified by the ~~health department~~[Department of Public Health](#) consultation, inspection or approval of projects and plans are required by state and local statutes, orders, quarantines, rules, regulations and ordinances shall be liable to pay a fee as established by [Section 8.50.080](#).

(Ord. 90-008, § 3; Ord. 88-020, § 4)

### **8.50.080 - Establishment of fees.**

A copy of the fees charged and a written administrative policy defining the application of the fees shall be available at the ~~health department~~[Department of Public Health](#) billing and collection office and ~~the Environmental Health~~[the health director's](#) office. The amount of such fees shall be updated at least annually and be as set forth in the master schedule of fees, charges, and costs recovery.

(Ord. 88-020, § 4)

### **8.50.090 - Refunds and proration of fees.**

No person required by this chapter to pay a fee is entitled to a refund or proration of the fee unless specifically authorized by the ~~health department~~[Department of Public Health](#).

(Ord. 88-020, § 4)

### **8.50.100 - Filing application.**

- A. Every person required to comply with the provisions of [Section 8.50.045](#) shall file an application for a permit to operate provided by the ~~health department~~[Department of Public Health](#). A permit shall be issued by the ~~health department~~[Department of Public Health](#) when investigation has determined that the proposed business or activity and its method of operation will conform to state and local standards and the applicant has paid to the ~~health department~~[Department of Public Health](#) the prescribed permit fee and penalty, if any, prior to the commencement of such business or activity. If upon investigation the enforcement officer finds the proposed business or activity and its method of operation in conformance, an interim permit may be issued. Such interim permit shall be valid for ninety days or until the applicant receives the permit to operate. If the permit is denied, the applicant is entitled to hearing and appeal procedures as described in [Section 8.50.155](#)(B), (C) and (G).
- B. Every person who conducts or engages in any of the businesses or activities as defined in [Section 8.50.055](#) shall file an application provided by the ~~health department~~[Department of Public Health](#) and pay the prescribed fee and penalty, if any, prior to the commencement of such business or activity.

(Ord. 93-007, § 3; Ord. 88-020, § 4)

### **8.50.110 - Issuance of receipt and permit.**

Upon approval of a permit to operate from the ~~health department~~Department of Public Health, if required by [Section 8.50.045](#), and receipt of the completed application and fee, the ~~health department~~Department of Public Health shall issue a permit and shall give the original permit and fee receipt to the applicant. The ~~health department~~Department of Public Health shall retain all other copies for the public record. In the event an applicant requests a copy of a permit or fee receipt because of loss of the original permit or receipt or for other reasons, the ~~health department~~Department of Public Health shall charge a transaction fee established by the ~~B~~Sboard of ~~S~~upervisors for each additional copy furnished.

(Ord. 90-008, § 4; Ord. 88-020, § 4)

### **8.50.120 - Exhibition of receipt and permit.**

Every person issued an interim permit, permit, or fee receipt under the provisions of this chapter and having a fixed place of business shall keep such interim permit, permit, or receipt posted and exhibited in a conspicuous place at said business. Every person issued such interim permit, permit, or receipt and not having a fixed place of business, shall personally maintain proof of such interim permit, permit, or receipt at all times while conducting the regulated business or activity.

(Ord. 88-020, § 4)

### **8.50.130 - Penalty for delinquent payment.**

If any fees required to be paid by this chapter have not been paid when due, there shall be imposed, in addition to all fees due and owing, a penalty equal to ten percent of said fees for each month or fraction thereof during which said fees are delinquent and unpaid.

(Ord. 88-020, § 4)

### **8.50.140 - Transfer of permits and receipts.**

Permits to operate, interim permits, and fee receipts required by this chapter shall not be transferred from one person to another, from one site of operation to another, nor from one vehicle to another, except when specifically authorized by the ~~health department~~Department of Public Health.

(Ord. 88-020, § 4)

### **8.50.150 - Violation of this chapter.**

Any person who fails to pay the applicable fee ~~and maintain a current permit~~, as provided by this chapter, shall be guilty of a ~~misdemeanor and may result in facility closure~~infraction. However, timely payment of applicable fees does not exempt any person from any action initiated by the ~~health department~~Department of Public Health as may be required in the enforcement of state statutes, orders, quarantines, rules, and regulations, or local ordinances.

Pursuant to California Government Code Section 25132, any person who willfully violates any provision of this chapter or any other rules or regulations adopted by the Environmental Health Division pursuant to this chapter, in addition to any criminal penalties, shall be liable for a civil penalty of between one hundred dollars (\$100.00) and five hundred dollars (\$500.00) for each day of violation. The enforcement agency shall be authorized to file and maintain an action in a court of appropriate jurisdiction to collect any such civil penalty arising under this section.

In addition, any violation of this chapter is deemed to be a public health nuisance and may be abated by the enforcement officer, irrespective of any other remedy provided in this chapter.

A. \_\_\_\_\_

If the operation is permissible, persons will be required to: (1) complete an application with Environmental Health; (2) undergo the plan check process, as applicable; and (3) pay twice the amount of permit fees.

B. \_\_\_\_\_

The County shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by a responsible party that the responsible party has made a bona fide effort to comply after the first violation, and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

This section does not limit the amount of administrative fine or civil penalty that may be imposed for violations of this Ordinance Code which are designated as misdemeanors or for which different fine amounts are set or allowed by State law.

(Ord. 88-020, § 4)

### **8.50.155- Permit suspension or revocation.**

- A. A permit or interim permit may be suspended or revoked for a violation of the Fresno County Ordinance Code or state statutes, orders, quarantines, rules, and regulations. Any business or activity for which a permit has been suspended shall cease operation and remain out of operation until the permit has been reinstated. Any business or activity for which a permit has been revoked shall cease operation and remain out of operation until a new permit has been issued.
- B. Whenever an enforcement officer finds that an applicant or a permitted business or activity is not in compliance, a written notice to comply shall be issued to the permittee or applicant.
  1. If the permittee or applicant fails to comply, the enforcement officer shall issue to the permittee or applicant a notice setting forth the acts or omissions with which the permittee or applicant is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be denied, suspended, or revoked. A written request for a hearing shall be made by the permittee or applicant within fifteen calendar days after receipt of the

notice. Failure to request a hearing within fifteen calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the Environmental Health Division Manager~~environmental health director~~ may order a hearing at any reasonable time within this fifteen-day period to expedite the permit denial, suspension or revocation process.

2. The hearing shall be held before the Environmental Health Division Manager~~environmental health director~~ within fifteen calendar days of the receipt of a request for a hearing. Upon written request of the permittee or applicant, the Environmental Health Division Manager~~environmental health director~~ may postpone any hearing date, if warranted.
- C. The Environmental Health Division Manager~~environmental health director~~ shall issue a written notice of decision to the permittee or applicant within five working days following the hearing. In the event of a denial, suspension or revocation, the notice shall specify the acts or omissions with which the permittee or applicant is charged, and shall state the terms of the denial or suspension or that the permit has been revoked.
- D. If any immediate danger to the public health or safety is found, unless the danger is immediately corrected, the Environmental Health Division Manager~~environmental health director~~ may temporarily suspend the permit and order the business closed or activity to cease. Immediate danger to the public health and safety means any condition, based upon inspection findings or other evidence, that can cause infection, poisoning, disease transmission, or hazardous condition.
1. Whenever a permit is suspended as the result of an immediate danger to the public health or safety, the Environmental Health Division Manager~~environmental health director~~ shall issue to the permittee a notice setting forth the acts or omissions with which the permittee is charged, specifying the pertinent code section, and informing the permittee of the right to a hearing.
  2. At any time within fifteen calendar days after service of a notice pursuant to subdivision (2-) of this subsection, the permittee may request in writing a hearing before the Environmental Health Division Manager~~environmental health director~~ to show cause why the permit suspension is not warranted. The hearing shall be held within fifteen calendar days of the receipt of a request for a hearing. A failure to request a hearing within fifteen calendar days shall be deemed a waiver of the right to such hearing.
- E. The Environmental Health Division Manager~~environmental health director~~ may, after providing opportunity for a hearing, modify, suspend or revoke a permit for serious or repeated violations of any state and local requirements or for interference in the performance of the duty of the enforcement officer.
- F. A permit may be reinstated or a new permit issued if the Environmental Health Division Manager~~environmental health director~~ determines that conditions which prompted the suspension or revocation no longer exist. Applicable fees must be paid upon issuance of a new permit.

- G. Permit modification, denial, suspension, or revocation may be appealed to the ~~board of review~~ hearing officer. A written request for an appeal hearing shall be made by the permittee or applicant within fifteen days of receipt of the notice of decision from the Environmental Health Division Manager ~~environmental health director~~.
- H. Failure to request a hearing before the ~~board of review~~ hearing officer pursuant to subsection G of this section shall be deemed a waiver of the right to such hearing. If a hearing is timely requested, the ~~board of review~~ hearing officer may sustain, modify or reverse the decision of the Environmental Health Division Manager ~~environmental health director~~.
- I. Any interested party, including the health officer, may appeal the decision of the ~~board of review~~ hearing officer to the board of supervisors by filing an appeal in writing with the ~~C~~ clerk of the ~~B~~ board of ~~S~~ supervisors within fifteen days of the decision. Failure to request a hearing within fifteen calendar days shall be deemed a waiver of the right to such hearing. The board of supervisors may sustain, modify or reverse the decision of the ~~board of review~~ hearing officer. The board of supervisors' decision shall be final. (Ord. 90-008, § 5; Ord. 88-020, § 4)

#### **8.50.160 - Enforcement.**

Any person authorized by the ~~health department~~ Department of Public Health to conduct inspections or to collect fees for any business or activity subject to this chapter shall have the authority and immunities of a public officer and employee as provided in Section 836.5 of the California Penal Code, to make arrests without a warrant whenever the officer or employee has reasonable cause to believe that the person to be arrested has committed an infraction in the officer's or employee's presence which is a violation of this chapter. (Ord. 88-020, § 4)

## **Chapter 8.60 – STORAGE OF HAZARDOUS SUBSTANCES IN UNDERGROUND TANKS**

### **8.60.010 – Purpose.**

The declared purpose of this chapter is to comply with the provisions of Chapter 6.7 of Division 20 of the California Health and Safety Code (commencing with Section 25280), which govern the construction, maintenance, testing and use of underground tanks used for the storage of hazardous substances and which mandates local implementation and enforcement of said state law pursuant to regulations adopted by the State Water Resources Control Board.

(Ord. 0-86-009, § 1)

### **8.60.020 – Adoption of state law and regulations by reference.**

The provisions of Chapter 6.7 of Division 20 of the California Health and Safety Code and the regulations adopted thereto by the State Water Resources Control Board are adopted by reference.

(Ord. 0-86-009, § 1)

### **8.60.030 – Designation of enforcing agency.**

The Fresno County health officer, in addition to his or her other duties, is designated as the officer responsible for administering and enforcing the provisions of state law and regulations pertaining thereto relating to underground storage of hazardous substances.

(Ord. 0-86-009, § 1)

### **8.60.040 – Fees.**

The board of supervisors may establish a schedule of fees at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter and the provisions of state law relating thereto.

(Ord. 0-86-009, § 1)

### **8.60.050 – Testing permit required.**

No person may precision test an underground storage tank, pursuant to regulations adopted by the State Water Resources Control Board, without first obtaining a permit therefor from the county health department.

(Ord. 0-86-009, § 1)

## Chapter 14.04 - WELL REGULATIONS—GENERAL PROVISIONS

### 14.04.010 - Purpose.

The Board of Supervisors of the County declares and finds that it is necessary for ~~the public health that~~ well construction, pump installation and well destruction standards be established to protect persons from contaminated or polluted water, and to maintain groundwater quality.  
(Ord. 470-A-39, § 1, 1974)

### 14.04.020 - Application.

This chapter and [Chapter 14.08](#) shall apply to the construction, repair, reconstruction, change of use or destruction of any well as hereinafter defined or the installation, or reinstallation, of any pump used or to be used for domestic, industrial, commercial or agricultural purposes.  
(Ord. 470-A-39, § 1, 1974)

### 14.04.030 - Definitions.

- A. "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. This definition shall not include:
  1. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation of the State of California, except those wells converted to use as water wells;
  2. Wells used for the purposes of:
    - i. Dewatering excavation during construction, or
    - ii. Stabilizing hillsides or earth embankments; or
  3. Springs.
- B. "Community water well" means a 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. (This definition includes wells commonly referred to as "municipal wells" or "city wells").
- C. "Individual domestic well" means a well used to supply water for domestic needs of a residential unit or commercial establishment.
- D. "Industrial well" means a well used to supply water for industry or an individual as distinguished from a community basis.
- E. "Agricultural well" means a well used to supply water for irrigation or other agricultural purposes, including so-called "stock wells."
- F. "Recharge or injection wells" means wells constructed to introduce water into the ground as a means of replenishing groundwater basins, repelling the intrusion of seawater or disposing of waste water.
- G. "Air-conditioning wells" means wells constructed to return to the aquifer water which has been used as a coolant in air-conditioning processes. Because the water introduced into these wells is degraded (from the standpoint of temperature), such wells are construed as waste discharges and are, therefore, subject to the water

quality control laws (Division 7 of the Water Code and [Division 5](#) of the Health and Safety Code).

- H. "Horizontal wells" means water wells drilled horizontally or at an angle with the horizon (as contrasted with the common vertical well. This definition does not apply to horizontal drains or "wells" constructed to remove subsurface water from hillsides, cuts, or fills to prevent or correct conditions that produce landslides.
- I. "Observation and monitoring wells" means wells constructed for the purpose of observing or monitoring groundwater conditions.
- J. "Test wells" means wells constructed for the purpose of obtaining the information needed to design a well prior to its construction. Such wells are to be distinguished from "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).
- K. "Inactive or standby wells" means a well not routinely operating but capable of being made operable with the placement of a pump.
- L. "Contamination" means the impairment of a quality of water to a degree which creates a hazard to the public health through poisoning or through spread of disease.
- M. "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.
- N. "Person" means any person, firm, corporation, or governmental agency subject to the jurisdiction of the [County](#).
- O. "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 modification or restatements of any order.
- P. "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.
- Q. "Health officer" means the [Director](#) of [the Department](#) of [Public Health](#) or [their duly](#) authorized representative.
- R. "Cathodic protection well" means any artificial excavation in excess of fifty feet constructed by any method for the purpose of installing equipment or facilities for the protection electrically of metallic equipment in contact with the ground, commonly referred to as cathodic protection.
- S. "Repair or reconstruction of well" means the deepening of a well or the reperforation or replacement of a casing.
- T. "Pump installation" Means the setting of a pump on any domestic, industrial, commercial or agricultural well, except that it shall not apply to the resetting of a pump on an agricultural well.  
(Ord. 0-83-008, § 1; Ord. 470-A-39, § 1, 1974)

#### **14.04.040 - General provisions applicable.**



The general provisions set forth in this chapter shall apply to this chapter and [Chapter 14.08](#).

(Ord. 470-A-39, § 1, 1974)

#### **14.04.050 - Permit required and inspections.**

- A. No person, as principal, owner, servant, agent or employee, shall dig, drill, or drive, repair or destroy any (water) well regardless of whether the well is to be used for domestic, irrigation, testing, geophysical or cathodic protection or other practices, without having a valid, unrevoked or unsuspended permit to do so, issued by the ~~county health officer~~ [Department of Public Health](#).
- B. Except as provided in subsection F of this section, the health officer shall issue the permit when ~~they~~~~he/she~~ find~~s~~ that the location of the proposed well and other circumstances relating thereto, or other work to be done, is such that it will not constitute a health hazard and can be accomplished in accordance with the provisions of ~~Chapters~~ [14.04](#) and [14.08](#) of this title. In the event that the health officer determines that the proposed well or work to be done will constitute a health hazard or cannot be done in accordance with [Chapters 14.04](#) and [14.08](#), ~~they~~ shall deny the permit.
- C. ~~There shall be no fee for the application or issuance of any permit issued pursuant to this chapter for construction, reconstruction, repair, change of use or destruction, since these regulations are for the benefit of the general public. Fees charged for wells shall be posted on the Environmental Health County website. To encourage well destructions and protect our ground water, when well destructions are sealed at the same time as a new well on the same parcel, requiring a single inspection for both, the well destruction fee shall not be charged.~~
- D. Inspections may be made by the health officer at any time during construction, reconstruction, repair or destruction of (water) wells to ~~insure~~~~ensure~~ compliance with the requirements of this chapter, [Chapter 14.08](#) and state statutes applicable to such construction, reconstruction, repair or destruction of (water) wells. After the work has been completed, the health officer shall be notified by the person performing the work and the ~~health department~~ [Department of Public Health](#) shall make a final inspection thereof. The health officer shall inspect injection wells used for industrial waste four times a year. The health officer shall inspect all other injection wells once a year.
- E. No property owner shall be denied the right to install a well or pump upon his or her own property, excepting as provided under [Chapter 14.09](#).
- F. Before issuing any permit to destroy any water well, the health officer shall determine whether the well is within an area that would benefit from additional groundwater monitoring wells. If the well is within such an area, then the health officer shall immediately refer the permit to the water and natural resources manager of the ~~De~~partment of ~~P~~ublic ~~W~~orks and ~~P~~lanning, who shall immediately give written notice to the groundwater sustainability agency with jurisdiction over the area where the well is located. The written notice shall specify that the groundwater sustainability agency has five ~~C~~ounty business days in which to respond and state whether it

intends to pursue conversion of the well to groundwater monitoring in lieu of destruction.

1. If the written response from the groundwater sustainability agency is that it does not so intend, or if the groundwater sustainability agency does not respond in writing within five ~~C~~county business days, then the ~~D~~department of ~~P~~ublic ~~W~~orks and ~~P~~lanning shall immediately return the permit to the health officer for further processing as provided in this [section 14.04.050](#).
2. If the written response from the groundwater sustainability agency is that it does intend to pursue conversion of the well to groundwater monitoring in lieu of destruction, then the property owner shall immediately cover the well with a locked watertight cap or other secured means, and the groundwater sustainability agency has sixty days in which to do all of the following: (a) negotiate with the property owner; (b) execute a written agreement for maintenance of the well by the groundwater sustainability agency, which agreement must also provide that when the well is no longer useful as a monitoring well, it shall be destroyed; (c) obtain an easement for maintenance access; and (d) provide copies of fully executed to the health officer. If the groundwater sustainability agency fails to do all of those things within the sixty-day period, then the ~~D~~department of ~~P~~ublic ~~W~~orks and ~~P~~lanning shall immediately return the permit to the health officer for further processing as provided in this [section 14.04.050](#).

(Ord. 89-00 1 § 1; Ord. 0-83-008, § 2; Ord. 470-A-39, § 1, 1974; Ord. No. 18-004, § 1, 3-20-2018)

#### **14.04.060 - Expiration of permit.**

- A. Each permit issued pursuant to this chapter shall expire and become null and void if the work authorized thereby has not been completed within one ~~h~~undred eighty days following the issuance of the permit. An extension, not to exceed sixty days may be granted by the health officer if requested prior to the expiration of a permit upon a finding that such work could not be completed for causes beyond the control of the permittee. -One additional extension, not to exceed another ninety90 days, may be granted for well constructions or destructions only in areas directly effectedaffected by a declared state of emergency that prevent wells in these areas to be completed before the expiration date.
- B. Upon expiration of any permit issued pursuant hereto, no further work may be done in connection with construction, repair, reconstruction or destruction of a well unless and until a new permit for such purpose is secured in accordance with the provisions of this chapter.

(Ord. 470-A-39, § 1, 1974)

#### **14.04.070 - Revocation or suspension of permit.**

- A. A permit issued hereunder may be revoked or suspended by the health officer as hereinafter provided if he determines that a violation of this chapter or [Chapter](#)

[14.08](#) exists, and the permittee fails to correct such violations within thirty days after the date of ~~written notice via mail or email mailing~~ of the violation notice.

- B. A permit may be revoked or suspended by the health officer if he determines that the person to whom any permit was issued pursuant to this chapter has obtained the same by fraud or misrepresentation.
- C. Stop Work Order. Whenever any well construction, destruction, pump installation or well repair work is being done contrary to the requirements of this chapter or [Chapter 14.08](#), the health officer shall order work stopped by posting a notice to desist at the well site. No further work shall be done until the health officer deems that the necessary corrections have been made.

(Ord. No. 13-016, § 1, 8-2-2013; Ord. 470-A-39, § 1, 1974)

#### **14.04.080 - Administrative variance.**

The health officer may grant administrative variance from any standard set forth in [Chapter 14.08](#) where evidence is submitted that an unusual circumstance exists in particular case whereby an unnecessary hardship would result from the application of the standard are that the granting of the variance will not cause a hazardous condition or endanger the public health.

(Ord. 470-A-39, § 1, 1974)

#### **14.04.090 - Additional or substitute standards.**

In the event of:

- A. Unusual geologic or groundwater conditions which necessitate standards more restrictive than those required herein; or
- B. The drilling of test holes, observation wells, exploratory holes or saltwater (hydraulic) barrier injections, the health officer may impose additional or substitute standards consistent with the purpose of this chapter and [Chapter 14.08](#).

(Ord. 470-A-39, § 1, 1974)

#### **14.04.100 - Well drillers and pump installers.**

Wells shall be constructed and pumps installed by contractors licensed in accordance with the provisions of the Contractors License Law of the ~~S~~state of California (Chapter 9, [Division 3](#), of the Business and Professions Code) unless exempted by that act. Nothing herein contained shall be construed so as to prevent a resident or owner from doing his own work.

(Ord. 470-A-39, § 1, 1974)

#### **14.04.110 - Reports.**

A copy of the water well driller's report shall be filed with the health officer not later than thirty days of the completion of any well as provided in [Chapter 14.08](#). Nothing contained in this chapter shall be deemed to release any person from compliance with the provisions of [Division 7](#), [Chapter 10](#), [Article 3](#) of the Water Code of the State of California.

(Ord. 0-83-008, § 3; Ord. 470-A-39, § 1, 1974)

#### **14.04.120—14.04.140 - Reserved.**

**Editor's note**— Ord. No. 13-016, § 2, adopted August 2, 2013, repealed §§ 14.04.120—14.04.140. Former § 14.04.120 pertained to the water well appeals board and derived from Ord. 0-83-008, § 4; Ord. 596, § 1, adopted 1977; and Ord. 470-A-39, § 1, adopted 1974. Former § 14.04.130 pertained to appeal from denial, revocation, or suspension of permit or an order of abatement, and derived from Ord. 470-A-39, § 1, adopted 1974. Former § 14.04.140 pertained to abatement of nuisance and derived from Ord. 470-A-39, § 1, adopted 1974.

#### **14.04.150 - Unlawful acts.**

It is unlawful for any person to construct, repair or reconstruct a well, destroy any well or set a pump in violation of any provisions of this chapter or [Chapter 14.08](#).  
(Ord. 470-A-39, § 1, 1974)

#### **14.04.160 - Violation—Penalty.**

The penalty for violation of any of the provisions of this chapter or [Chapter 14.08](#) shall be as prescribed in [Section 1.12.010](#). The provisions of this chapter and [Chapter 14.08](#) may also be enforced by injunction issued out of the Superior Court upon suit of the County or the owner or person in possession of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof.  
(Ord. 470-A-39, § 1, 1974)