

1 [Soil Boring and Well Regulation Ordinance.]
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3 **Ordinance amending the San Francisco Health Code by deleting Section 659 and**
4 **adding a new Article 12B to establish a regulatory program for the construction,**
5 **modification, operation, and destruction of soil borings and wells, including both non-**
6 **production and water wells, to protect the public health and safety and the integrity of**
7 **the City's groundwater resources by requiring anyone who proposes to construct,**
8 **modify, operate, maintain or destroy a well or soil boring to obtain a permit; amending**
9 **Section 249.13 of the San Francisco Business and Tax Regulations Code to set forth**
10 **the annual fee for the permit; and amending Section 3101 of the Health Code to**
11 **renumber the reference to section 659 of the Health Code to Article 12B.**

12 Note: Additions are *single-underline italics Times New Roman*;
13 deletions are *strikethrough italics Times New Roman*.
14 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. The San Francisco Health Code is hereby amended by deleting Section
17 659 in its entirety.

18 ~~Sec. 659. USE OF WATER WELLS; PERMITS.~~

19 ~~(a) It shall be unlawful for any person, firm or corporation to maintain or use any well for the~~
20 ~~purpose of drawing therefrom water intended for drinking, industrial or irrigation or agricultural~~
21 ~~purposes without first obtaining from the Department of Public Health a permit to do so; or to use any~~
22 ~~well after notice from said Department to close or fill it.~~

23 ~~(b) Whenever it shall appear to the satisfaction of the Department of Public Health that any~~
24 ~~well, the water of which is used for domestic purposes, drinking, industrial or irrigation or agricultural~~
25 ~~purposes, or has become polluted or contaminated, or in anywise rendered unsafe for domestic or~~

1 ~~drinking, industrial, irrigation or agricultural purposes or has become otherwise prejudicial to health~~
2 ~~and safety or dangerous to life, said Department of Public Health shall give to the owner or his agent,~~
3 ~~lessee, tenant, or other person in charge of such well, written notice to close and to fill it within a time~~
4 ~~to be specified in such notice. If such notice be not complied with, the Department of Public Health~~
5 ~~shall cause such well to be closed and filled up at the cost and expense of the owner thereof.~~

6 ~~(e) Any person, firm or corporation who constructs, reconstructs, repairs, destroys or converts~~
7 ~~any water well shall comply with the Water Well Standards of the State of California, Department of~~
8 ~~Water Resources and San Francisco County.~~

9 Section 2. The San Francisco Health Code is hereby amended by adding Article 12B,
10 to read as follows:

11 **ARTICLE 12B: SOIL BORING AND WELL REGULATIONS**

12 Division I – General Provisions

13 Sec. 800. Purpose and Findings.

14 Sec. 801. Definitions.

15 Sec. 802. Contamination of Groundwater Prohibited.

16 Division II – Well and Soil Boring Construction, Modification, Operation and Maintenance

17 Sec. 803. Permit Required.

18 Sec. 804. Application.

19 Sec. 805. Additional Submission for Application for Water Wells.

20 Sec. 806. Permit Issuance and Mandatory Provisions.

21 Sec. 807. Additional Terms for Water Well Permits.

22 Sec. 808. Transfer of Permit.

23 Sec. 809. General Well Construction Standards.

24 Sec. 810. Additional Construction Standards for Water Wells.

25 Sec. 811. Variances.

1 Sec. 812. Modification of a Well Permit.

2 Sec. 813. Permit Renewal.

3 Sec. 814. Suspension and Revocation.

4 Division III – Well Inactivation and Destruction

5 Sec. 815. Discontinuation of Well Operation.

6 Sec. 816. Well Inactivation.

7 Sec. 817. Approval for Well Inactivation.

8 Sec. 818. Well Destruction.

9 Sec. 819. Application for Approval.

10 Sec. 820. Issuance of Approval.

11 Sec. 821. Nuisance Declared and Abatement Authority.

12 Sec. 822. Unused Well Discovered.

13 Sec. 823. Content and Service of the Destruction Order.

14 Sec. 824. Administrative Review of Destruction Order.

15 Division IV - Enforcement

16 Sec. 825. Right of Entry and Inspection.

17 Sec. 826. Specific Inspection Authorized.

18 Sec. 827. Report of Completion.

19 Sec. 828. Suspension and Revocation.

20 Sec. 829. Enforcement.

21 Sec. 830. Penalties.

22 Sec. 831. Liability for Damages.

23 Sec. 832. Liens.

24 Sec. 833. Administrative Hearing.

25 Sec. 834. Disqualification.

1 Division V – Miscellaneous Provisions

2 Sec. 835. Regulations.

3 Sec. 836. Remedies not Exclusive.

4 Sec. 837. Disclaimer of Liability.

5 Sec. 838. Fees.

6 Sec. 839. Not Exempted From Paying Other Fees.

7 Sec. 840. Not Exempted From Compliance With Other Laws.

8 Sec. 841. Discretionary Duty.

9 Sec. 842. Severability.

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11 **ARTICLE 12B: SOIL BORING AND NON-WELL REGULATIONS**

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13 **DIVISION I – GENERAL PROVISIONS**

14 Sec. 800. **Purpose and Findings.** The Board of Supervisors finds and declares the following:

15 (a) There are seven (7) distinct groundwater basins in the City and County of San Francisco.
16 The San Francisco Public Utilities Commission identified the existing and potential uses of some of
17 these aquifers, including but not limited to supply of water for domestic purposes in San Francisco, use
18 of groundwater for irrigation of City parks, landscaping and maintaining natural water features; use of
19 groundwater for emergency purposes; conjunctive surface and groundwater to improve reliability of
20 San Francisco's water system; and industrial uses of non-potable groundwater to offset demands for
21 potable water.

22 (b) Perforations of aquifers beneath the City, such as wells and soil borings, may serve as
23 conduits for chemicals to contaminate the groundwater if the wells and soil borings are not constructed
24 properly.

1 (c) Because San Francisco is situated at the end of a peninsula surrounded on three sides by
2 salt water, and due to the potential for earthquakes and other natural disasters to interrupt the supply
3 of imported water to San Francisco from Hetch Hetchy and other sources, available groundwater
4 supplies in San Francisco constitute an important resource held in trust for the benefit of the People of
5 San Francisco.

6 (d) The People of San Francisco have a primary interest in the location, construction,
7 maintenance, abandonment and destruction of wells, such as monitoring wells and cathodic protection
8 wells, and soil borings which activities directly affect the quality and purity of groundwater.

9 (e) The purpose of this Article is to protect the health, safety and general welfare of the People
10 of the City and County of San Francisco by ensuring that local groundwater resources designated for
11 beneficial uses will not be polluted or contaminated. To these ends, this Article sets forth minimum
12 requirements for (1) construction, modification and destruction of wells and other perforations of the
13 water table, and (2) operation of such wells.

14 (f) Unmanaged use of groundwater in San Francisco creates a risk of harm to a common
15 resource shared by all San Franciscans as part of the City's historic Pueblo water right to all water,
16 surface and underground, within the historic Pueblo of San Francisco. Potential risks include, but are
17 not limited to, land subsidence, contamination of aquifer(s) through improper well construction and
18 closure; seawater intrusion into coastal aquifers as a result of pumping in excess of the aquifer's safe
19 yield; and adverse environmental impacts on San Francisco's few remaining natural streams and
20 lakes.

21 (g) It shall be the policy of the City and County of San Francisco to make beneficial use of
22 groundwater where economically and environmentally feasible, and to prevent the use of groundwater
23 when necessary to protect the health, safety and welfare of the People of the City and County.

24 Sec. 801. **DEFINITIONS.** Except as otherwise specified in this Article, whenever used in this Article,
25 the following terms shall have the meanings set forth below:

1 (a) "Abandoned Well," means a well that has not been used for one year or more, unless the
2 owner demonstrates an intention to use the well again. "Abandoned well" shall not include standby
3 emergency potable water wells constructed and maintained by the San Francisco Public Utilities
4 Commission in accordance with the requirements of this Article. Evidence of intention for future use
5 shall include all of the following:

6 (1) The well does not impair the quality of water within the well and the groundwater
7 encountered by the well.

8 (2) The top of the well or well casing shall be provided with a cover, that is secured by a lock
9 or by other means to prevent its removal without the use of equipment or tools, to prevent
10 unauthorized access, to prevent a safety hazard to humans and animals, and to prevent
11 illegal disposal of wastes in the well. The cover shall be watertight where the top of the
12 well casing or other surface openings to the well are below ground level, such as in a
13 vault or below known levels of flooding. The cover shall be watertight if the well is
14 inactive for more than five consecutive years.

15 (3) The well shall be marked so as to be easily visible and located, and labeled so as to be
16 easily identified as a well.

17 (4) The area surrounding the well shall be kept clear of brush, debris, and waste materials.

18 (5) The owner has a valid permit for the well.

19 (b) "Annular Seal" shall mean the material placed in the space between the well casing and the
20 wall of the drilled hole (the annular space), in accordance to the requirements of this Article.

21 (c) "Beneficial Uses" shall mean the use of groundwater for domestic, municipal, agricultural,
22 industrial, aesthetic, habitat, recreational and environmental purposes.

23 (d) "Cathodic Protection Well" shall mean any well in excess of fifty (50) feet constructed by
24 any method for the purpose of installing equipment or facilities for the electrical protection of metallic
25 equipment in contact with ground, commonly referred to as cathodic protection.

1 (e) "CEQA" shall mean the California Environmental Quality Act, Division 13 of the
2 California Public Resources Code, commencing at Section 21000.

3 (f) "City" shall mean the City and County of San Francisco.

4 (g) "Commission" shall mean the San Francisco Health Commission established in accordance
5 with Section 4.110 of the San Francisco Charter.

6 (h) "Contamination" shall mean an impairment of the quality of the groundwater by waste to a
7 degree that creates a hazard to the public health through poisoning or through the spread of disease.

8 (i) "Department" shall mean the San Francisco Department of Public Health.

9 (j) "Dewatering Well" shall mean a well used or the purpose of dewatering excavation during
10 construction or stabilizing hillside or earth embankments.

11 (k) "Director" shall mean the Director of the Department or his or her designee.

12 (l) "Inactive well" shall mean a well not routinely operated but capable of being made an
13 operating well with a minimum of effort.

14 (m) "Modification" shall mean any work done on an existing well to restore or modify its
15 function, replace any casing, seal off certain strata or surface water, or similar work. Modification
16 shall not include the activities that do not violate the integrity of the annular space or the well casing or
17 that does not have the potential of causing groundwater contamination to migrate or disperse.

18 (n) "Monitoring Well" shall mean a well constructed for the purpose of observing, monitoring,
19 or supplying information regarding the quality of groundwater, or the concentration of contaminants in
20 groundwater.

21 (o) "Operator" shall mean any person who has daily responsibility for and daily operational
22 control over a well or soil boring.

23 (p) "Owner" shall mean any person who owns a property with a well or soil boring thereon.

24 (q) "Person" shall mean any natural person, trust, firm, joint stock association, corporation
25 including a government corporation, partnership, association, city, county, city and county, district, the

1 State, any agency, department, office, board, commission, or bureau of State government, including but
2 not limited to, the campuses of the California Community Colleges, the California State University, and
3 the University of California, and the United States, to the extent authorized by law. For the purposes of
4 this Article, "person" shall include any department, Board or Commission of the City and County of
5 San Francisco.

6 (r) "Pollution" shall mean an alteration of the quality of the groundwater by waste to a degree
7 that unreasonably affects the beneficial uses of the groundwater.

8 (s) "San Francisco Planning Commission" shall mean the commission and the department
9 established in accordance with Section 4.105 of the San Francisco Charter or any successor agency,
10 department or commission designated by the City as the lead agency for complying with the CEQA
11 requirements.

12 (t) "SFPUC" shall mean the San Francisco Public Utilities Commission as established in
13 accordance with Sections 4.112 and 8B.121 of the San Francisco Charter and its associated
14 departments.

15 (u) "Soil Boring" shall mean an uncased artificial excavation constructed for the purpose of
16 obtaining information on subsurface conditions to determine the nature of subsurface earth materials,
17 the presence or extent of contamination in subsurface soil or groundwater and/or seismic information.
18 Soil Boring shall include, but is not limited to, environmental and geotechnical borings and test holes.

19 (v) "Soil Vapor Extraction Well" shall mean any well used for on-site remediation to reduce
20 the concentration of volatile constituents in petroleum products absorbed or adsorbed to soils in the
21 unsaturated (vadose) zone.

22 (w) "Waste" shall mean sewage and other substances, liquid, solid, gaseous, or radioactive,
23 associated with human habitation, or of human or animal origin, or from any producing,
24 manufacturing, or process operation, including waste placed within containers of whatever nature
25 prior to, and for the purposes of, disposal.

1 (x) “Water well” shall mean any artificial excavation constructed by any method for the
2 purpose of extracting groundwater for beneficial uses. For the purposes of this Article, the term
3 “water well” shall not include: (1) oil and gas wells, or geothermal wells constructed under the
4 jurisdiction of the California Department of Conservation, except those wells converted for use as a
5 water well; or (2) potholes, drainage trenches or canals, waste water ponds, shallow root zone
6 piezometers, stock ponds, or similar excavations.

7 (y) “Well” shall include, but is not limited to, wells installed for the purposes of extracting
8 groundwater for beneficial uses, cathodic protection, dewatering, monitoring purposes and soil vapor
9 extraction.

10 Sec. 802. **CONTAMINATION OF GROUNDWATER PROHIBITED.** It shall be unlawful for any
11 person to construct, modify, operate or maintain a well or soil boring which presents a substantial risk
12 of groundwater contamination due to the current or past presence of pollution from any source, even if
13 the well or soil boring may be properly constructed, operated or maintained, except in the case of:

14 (a) Monitoring wells used for the purposes of observing or monitoring groundwater conditions.

15 (b) Extraction wells used for the purpose of extracting and treating water or soil from a
16 contaminated aquifer.

17 **DIVISION II – WELL AND SOIL BORING CONSTRUCTION, MODIFICATION, OPERATION**
18 **AND MAINTENANCE**

19 Sec. 803. **PERMIT REQUIRED.** Except as otherwise provided by law, no person shall construct,
20 modify, operate or maintain a well, whether active or inactive, or soil boring without a permit issued in
21 accordance to this Article.

22 Sec. 804. **APPLICATION.** Any person proposing to construct, modify, operate and/or maintain a well
23 or soil boring shall file with the Department a completed written application on forms approved by the
24 Department and submit the appropriate application fees thirty (30) days prior to the proposed
25 commencement of such activities. For well permits in Hunters Point Shipyard Parcel A, such permit

1 application shall not be deemed complete until the department receives written notification from the
2 Director that the applicant has complied with all provisions of Article 31 that are required to be met
3 prior to permit issuance. The completed application shall include, without limitation, all of the
4 following, when applicable:

5 (a) The name and address of the owner of the property on which the well or soil boring is
6 located.

7 (b) The name and address of the operator of the well or soil boring, if different from the owner.

8 (c) The name and state license number of the general contractor, if applicable, and the C-57
9 license number of the person responsible for the construction or modification of the well or soil boring.

10 (d) The address at which notices issued in accordance to this Article are to be served, if
11 different from those specified in Subsections (a) and (b).

12 (e) A plot plan showing the proposed or actual location of the well or the soil boring that is
13 being constructed, modified, operated or maintained with respect to the following items within a radius
14 of five hundred feet (500') from the well or soil boring:

15 (1) Property lines, including ownership;

16 (2) Sewage or waste disposal system, including reserved waste disposal expansion
17 areas, or works for conveying sewage waste;

18 (3) The approximate drainage pattern of the property;

19 (4) Other wells, including abandoned wells;

20 (5) Access road to the well site;

21 (6) Any structures; and

22 (7) Any aboveground or below ground utilities.

23 (f) Location of the property with a vicinity map including the legal description of the property
24 and the assessor's parcel, block and lot numbers.

25 (g) The proposed use and the operating parameters of the well or soil boring, if applicable.

1 (h) The expected operational lifetime of the well or soil boring, if applicable.

2 (i) Location and classification by visual inspection of any solid, liquid, or hazardous waste
3 disposal sites within five hundred feet (500') of the proposed well or soil boring.

4 (j) Method of and a proposed schedule for the construction or modification of the well or soil
5 boring.

6 (k) The construction parameters of the well or soil boring including, without limitations, the
7 following information, if applicable:

8 (1) Total depth of the proposed well or soil boring;

9 (2) Depth and the type of casing to be used for the proposed well;

10 (3) Depth and the type of the perforation; and

11 (4) Proposed depth and type of annular seal.

12 (l) A plan for the safe and appropriate handling and disposal of drilling fluids and other
13 drilling materials resulting from the proposed work.

14 (m) An approval from the San Francisco Public Utilities Commission if drilling fluids or water
15 extracted from the well or soil boring will be discharged into the sanitary sewer.

16 (n) Submission of completion bonds, contractor's bonds, cash deposits, or other adequate
17 security of at least \$10,000 to insure that all projects are performed completely and properly in a
18 manner which protects the public health and safety and the integrity of the groundwater resources. The
19 Director may, in his or her discretion, increase the amount of the bond, cash deposit or security
20 deemed necessary to protect the public health and safety and the integrity of the groundwater
21 resources.

22 (o) Submission of the appropriate filing fees as provided for in this Article.

23 (p) Any other information deemed necessary by the Department to ensure adequate protection
24 of groundwater resources.

1 Sec. 805. **ADDITIONAL SUBMISSION FOR APPLICATION FOR WATER WELLS.** In addition
2 to the information specified in Section 804 of this Article, an applicant for a water well permit shall
3 submit information on the proposed operating parameters of the water well, including the maximum
4 and average rate of withdrawal of groundwater proposed to meet the applicant's beneficial uses.
5 Upon receipt of an application for a water well permit, the Department shall refer the application to
6 the Department of City Planning for an environmental determination under CEQA as required by
7 chapter 31 of the San Francisco Administrative Code. Following completion of CEQA review, the
8 applicant shall be required to obtain the approval of the SFPUC authorizing the withdrawal of
9 groundwater and to comply with any conditions or restrictions on use of the water well imposed as
10 mitigation measures by the Department of City Planning or by the SFPUC for purposes of managing
11 groundwater resources in San Francisco. Failure to reach agreement with the SFPUC for the
12 operation of a proposed water well shall result in denial of a water well permit application by
13 Department.

14
15 Sec. 806. **PERMIT ISSUANCE AND MANDATORY PROVISIONS.** Upon satisfactory compliance
16 with the requirements of Sections 804 and 805 of this Article, the Department shall issue to the
17 applicant a permit for the construction, modification, maintain and operation of the well. The
18 Department may include such terms in the permit, as necessary, to ensure compliance with the
19 requirements of this Article. In addition, the permit shall be issued with the following terms and
20 conditions whether explicitly stated or not, when applicable:

21 (a) The construction or modification of the well or soil boring on the property shall be comply
22 with the standards set forth in the "Water Well Standards: State of California, California Department
23 of Water Resources Bulletin 74," 1968, including all subsequent modifications and with this Article;

24 (b) The permittee shall complete any authorized work related to the construction and
25 modification of the well or soil boring within six (6) months of the date of issuance of the permit;

1 (1) Upon a showing of good cause by the applicant, the Department may grant the
2 applicant a one-time extension not to exceed six (6) months. Applicant shall make
3 the request for an extension in writing to the Department at least thirty (30) days
4 prior to the expiration of the construction authorization set forth in the permit.

5 (c) Upon the expiration of the construction authorization of the permit, no further work shall be
6 performed unless and until the applicant receives an extension or a new authorization;

7 (d) The permittee shall post a copy of the permit at well or soil boring site at all times;

8 (e) The permittee shall use construction practices that would prevent the contamination or
9 pollution of groundwater during the construction or modification of the well or soil boring;

10 (f) The permittee shall comply with the approved plan for the safe and appropriate handling,
11 labeling, storage and disposal of drilling fluids and other drilling materials used in connection with the
12 permitted work;

13 (g) All construction or modification work shall be performed by a person who possesses a valid
14 C-57 contractor's license issued by the California State Contractor Licensing Board and is identified in
15 the application submitted in accordance with Section 804 of this Article;

16 (h) All work shall be performed in accordance with the approved work schedules and methods,
17 as set forth in the application submitted in accordance with Section 804 of this Article. If changes are
18 made to the work schedule, applicant shall inform the Department in writing within five (5) days after
19 such changes are deemed necessary;

20 (i) The permittee shall not operate the well unless the Department has inspected the well in
21 accordance with Section 826 of this Article to ensure compliance with the requirements of this Article
22 or unless such inspections has been waived by the Department;

23 (j) For a soil boring, the soil boring shall be destroyed in accordance with the requirements of
24 this Article within 24 hours from the time that the testing work is completed and the owner and/or
25

1 operator shall provide to the Department documentation showing such destruction within 24 hours of
2 the destruction of the soil boring.

3 (k) For the construction or modification of a well that penetrates more than one groundwater
4 aquifer in areas designated by the San Francisco Public Utilities Commission with known groundwater
5 quality problems, the permittee shall submit:

6 (1) A report prepared by a geologist registered pursuant to Business & Professions
7 Code § 7850 or a civil engineer that is licensed pursuant to Business & Professions
8 Code § 6762 that identifies all strata containing poor quality groundwater and
9 recommends the location and specification of the seal(s) needed to prevent the
10 entrance of poor quality groundwater or its migration into the other aquifers; and

11 (2) Special annular seals to prevent mixing of groundwater from the several aquifers.

12 (l) The permit shall be renewed in accordance with Section 808 of this Article.

13 (m) The permittee shall comply with all applicable provisions of local, state and federal laws.

14 Sec. 807. **ADDITIONAL TERMS FOR WATER WELL PERMITS.** In addition to the provisions set
15 forth in Section 806 of this Article, a permit for a water well shall be issued with the following terms
16 and conditions whether explicitly stated or not:

17 (a) The issuance of a permit by the Department, shall not be construed as vesting overlying or
18 appropriative groundwater rights on the permittee to withdraw water from the water well. Any water
19 well construction and operation authority granted by the Department to the permittee shall be subject
20 to the terms of the approval from the SFPUC to the permittee for the extraction of groundwater
21 required under section 805 of this Article.

22 (b) A record of the operation of the water well shall be kept at the water well site or at another
23 location upon prior approval of the Department for a period of three (3) years and shall be available
24 for inspection by the Department or the SFPUC upon request. The record shall include, information as
25 required by the agreement between the permittee and SFPUC.

1 (c) The permit shall automatically expire upon the termination of the agreement or approval for
2 the withdrawal of groundwater from the permitted well, unless (1) the withdrawal of groundwater from
3 the permitted well was extended by mutual agreement between the permittee and the SFPUC, (2) within
4 15 days before the termination of the agreement, the permittee notifies the Department that the permit
5 will be transferred to the SFPUC at the termination of the agreement, or (3) the permittee receives an
6 approval from the Department allowing for the maintenance of an inactive well.

7 Sec. 808. **TRANSFER OF PERMIT.** Except as provided for in this Section, permits issued under this
8 Article shall not be transferred to another person, address or physical location within the same
9 address.

10 (a) A permit issued under this Article may be transferred to another person, provided that, the
11 Department is notified within thirty (30) days of the change in owner and/or operator of the well and
12 receives the appropriate fees.

13 (b) A permit issued under this Article may be transferred to the SFPUC upon the termination of
14 the agreement or approval from the SFPUC to withdraw groundwater. Such transfer shall only occur
15 upon an agreement from the SFPUC to accept such transfer.

16 Sec. 809. **GENERAL WELL CONSTRUCTION STANDARDS.**

17 (a) Except as otherwise provided, the standards for construction and modification of wells shall
18 be those as set forth in the "Water Well Standards: State of California, California Department of Water
19 Resources Bulletin 74," 1968, including all subsequent modifications.

20 (b) The construction of monitoring wells shall conform to the applicable California Department
21 of Water Resources, California Department of Toxic Substance Control, the Regional Water Quality
22 Control Board, and the United States Environmental Protection Agency standards and guidelines for
23 the construction of monitoring wells.

1 (c) For the construction or modification of a well that penetrates more than one groundwater
2 aquifer in areas designated by the City with known groundwater quality problems, the Department may
3 require:

- 4 (1) A report prepared by a geologist registered pursuant to Business & Professions
5 Code § 7850 or a civil engineer that is licensed pursuant to Business & Professions
6 Code § 6762 that identifies all strata containing poor quality groundwater and
7 recommends the location and specification of the seal(s) needed to prevent the
8 entrance of poor quality groundwater or its migration into the other aquifers; and
9 (2) Special annular seals to prevent mixing of groundwater from the several aquifers.

10 (d) Drilling fluids and other drilling materials used in connection with the construction of wells
11 or soil borings shall not be allowed to discharge onto streets or into sanitary sewer or waterways, or to
12 the adjacent property unless:

- 13 (1) the San Francisco Public Utilities Commission, Industrial Waste Division gave
14 prior approval to the discharge of drilling fluid into the sanitary sewer;
15 (2) the discharge is carried out in compliance with a lawful order from the Regional
16 Water Quality Control Board for the San Francisco Bay Area; or
17 (3) the discharge onto adjacent property is in accordance with a prior written
18 agreement with the owner(s) of the adjacent property; such fluids and materials
19 shall be cleaned up and removed within thirty (30) days after completion of the well
20 drilling; and there is no violation of waste discharge regulations set forth in Article
21 4.1 of the San Francisco Public Works Code.

22 Sec. 810. **ADDITIONAL CONSTRUCTION STANDARDS FOR WATER WELLS.** In addition to
23 the standards specified in Section 809 of this Article, the construction or modification of water wells
24 shall comply with the following:

1 (a) Water wells shall be located an adequate distance from all potential sources of
2 contamination and pollution. Such minimum distances shall be as follows:

3 (1) Sewer - 50 feet.

4 (2) Watertight septic tank - 100 feet

5 (3) Subsurface sewage leach line or leach field - 100 feet

6 (4) Cesspool or seepage pit - 150 feet

7 (5) Animal or fowl enclosures - 100 feet

8 (6) Any surface sewage disposal system - 200 feet.

9 (b) Minimum distances of the water well from sources of pollution or contamination may be
10 increased when the Department determines that particularly adverse or special hazards exist, the
11 foregoing distances may be increased. Alternatively, the Department may require specially approved
12 means to protect the quality of groundwater extracted for beneficial uses and in the underlying
13 aquifer(s).

14 (c) A sounding pipe or other access to well casing.

15 (d) A check valve shall be provided on the pump discharge line adjacent to the pump.

16 (e) An unthreaded spigot shall be provided on the pump discharge line of any well adjacent to
17 the pump and on the upstream side of the check valve.

18 (f) A flow meter or other suitable measuring device shall be located at each water well and
19 shall accurately register the quantity of water being withdrawn from the water well.

20 (g) An air-relief vent, if installed, shall be directed downward, be screened, and otherwise be
21 protected from the entrance of contaminants.

22 (h) All pump discharge pipes not discharging or open to the atmosphere shall be equipped with
23 an automatic device to prevent backflow and/or back siphonage into a water well. Specific backflow
24 prevention measures are required for drinking water supply wells, as prescribed in Sections 7583-7585
25 and 7601-7605 of Title 17 of the California Code of Regulations.

1 (i) After completion of the construction or modification activity, the water well shall be
2 thoroughly cleaned of all foreign substances. The well gravel used in packed wells, pipes, pump, pump
3 column, and all well water contact equipment surface shall be disinfected by a Department-approved
4 method. The disinfectant shall remain in the water well and upon all relevant surfaces for at least
5 twenty-four (24) hours. Disinfection procedures shall be repeated until microbiologically safe water
6 can be produced, as set forth in the California Code of Regulations, Title 22, Domestic Water Quality
7 Monitoring. At the discretion of the Department, for the purpose of protecting public health and safety,
8 any new or modified water well shall be tested for all water quality standards as set forth in Title 22 of
9 the California Code of Regulations.

10 Sec. 811. **VARIANCES.** The Director shall have the discretion to grant variances from the
11 construction standards for water wells set forth in Section 810, provided that the applicant
12 demonstrates that strict interpretation of a standard would cause practical difficulties or unnecessary
13 hardship due to special circumstances and that the requested variances do not pose a threat to the
14 public health and the City's groundwater resources. A request for a variance shall be in writing and
15 submitted to the Department as a part of the application for a permit. No variance shall be granted
16 unless: (a) it has been evaluated by the San Francisco Planning Department during its environmental
17 review process in accordance with San Francisco Administrative Code Chapter 31 and (b) the
18 Department finds, after an administrative hearing held in accordance with Section 833 of this Article,
19 that the requested variance is consistent with the purposes of this Article.

20 Sec. 812. **MODIFICATION OF A WELL PERMIT.**

21 (a) The Department may order the modification of any permit issued under this Division upon
22 (1) a written application from the permittee or (2) a showing that the operation may (A) violate any
23 provisions of this Article or (B) endanger the public health.

24 (b) If the Department determines that a permit issued under this Division is required to be
25 modified in accordance with Clause (a)(2) of this Section, the Department may issue an order

1 modifying the permit to protect the public health and safety. The Department shall be served such
2 order on the permittee, either by personal service or by certified mail return receipt requested, and
3 shall be effective and final thirty (30) days after the service of such order unless appealed by the
4 permittee. Within thirty (30) days from the service of the order, the permittee may appeal the
5 modification order to the Director. The Director shall conduct an administrative hearing upon the
6 filing of an appeal by the permittee in accordance to Section 833 of this Article;

7 (c) A permittee proposing to modify the operation of a water well by increasing the rate of
8 water withdrawal shall be referred by Department to the Department of City Planning for CEQA
9 review under Chapter 31 of the San Francisco Administrative Code. Following said determination, the
10 permittee shall submit to Department a copy of the agreement with the SFPUC authorizing increased
11 water withdrawals;

12 (d) Except as provided for in Subsection (b) of this Section, prior to ordering any requested
13 modification, the Department shall hold an administrative hearing pursuant to Section 833 of this
14 Article.

15 Sec. 813. **PERMIT RENEWAL.** Every permittee shall renew his or her permit, at the beginning of
16 each calendar year, by paying to the Tax Collector the annual permit fee set forth in Section 249.13 of
17 the San Francisco Business and Tax Regulation Code. Upon the failure of the permittee to pay such
18 fees, the permit shall be consider null and void until the permittee pays the fees and any penalties that
19 might be assessed by the Director.

20 Sec. 814. **SUSPENSION AND REVOCATION.** The Department shall have the authority to suspend
21 or revoke any permit issued under this Article upon a showing that the permittee has violated any
22 provisions of the permit or this Article, has misrepresented any material fact in an application or any
23 supporting documents for a permit, or failed to comply with any final non-appeal Director's order.
24 Prior to ordering such suspension or revocation, the Department shall hold an administrative hearing
25 pursuant to Section 833 of this Article.

1 **DIVISION III – WELL INACTIVATION AND DESTRUCTION**

2 **Sec. 815. DISCONTINUATION OF WELL OPERATION.** *Not later than fifteen (15) days before*
3 *discontinuing a well operation, the owner or operator shall:*

4 (a) *notify the Department that the operation of the well will be terminated; and*

5 (b) *take one of the following action:*

6 (1) *apply for approval to destroy the well,*

7 (2) *notify the Department that the permit for the water well will be transferred to the*
8 *SFPUC upon the discontinuation of the water well operation, or*

9 (3) *submits a plan for Department approval allowing the well to remain in an inactive*
10 *state.*

11 *Upon the discontinuation of the operation of a well, the owner or operator shall make all reasonable*
12 *efforts to prevent the contamination or pollution of the well and to minimize the safety hazards caused*
13 *by the presence of the well until the well is destroyed, the permit is transferred to the SFPUC, or the*
14 *department approves the plan to maintain an inactive well submitted in accordance with this Article.*

15 **Sec. 816. WELL INACTIVATION.** *An owner or operator of a well may seek approval from the*
16 *Department to maintain an inactive well by submitting the appropriate application fee and a plan*
17 *including, without limitation, the following information:*

18 (a) *The owner of the property on which the well is located.*

19 (b) *The address of the owner of the property.*

20 (c) *The manner in which the well will be maintained to prevent the contamination of the*
21 *groundwater and to minimize the safety hazard of having an inactive well on the property.*

22 **Sec. 817. APPROVAL FOR WELL INACTIVATION.** *Upon the submission of a plan to inactivate a*
23 *well, the Department shall review such plan to ensure that the inactive well will be maintained in a*
24 *manner such that the inactive well will not become a safety hazard to humans and animals or a conduit*
25 *for the contamination of the groundwater. The Department shall issue an approval for the*

1 owner/operator to maintain the well in an inactive state in accordance with the approved plan. Within
2 five (5) days of the issuance of such approval, the Department shall inspect the inactive well to verify
3 the implementation of approved plan. The Department shall notify the SFPUC of any approval for a
4 water well inactivation issued under this Section.

5 (a) If the Department determines that the submitted plan does not comply with the requirements
6 of this Article, the Department shall reject the plan and specify deficiencies found in the plan. Within
7 fifteen (15) days of the receipt of such rejection the owner/operator shall (1) request an administrative
8 hearing held in accordance with Section 833 of this Code; (2) submit an application for the destruction
9 of the well in accordance with Section 819 of this Code; or (3) submit a modified plan correcting the
10 deficiencies cited by the Department in its rejection.

11 **Sec. 818. WELL DESTRUCTION.**

12 (a) Except as otherwise provided by law, no person shall destroy a well without prior approval
13 from the Department.

14 (b) A person may commence the destruction of any wells without prior approval provided that
15 such work is urgently needed and that any delay would result in an immediate and imminent threat to
16 the public health and safety or the environment. Any person commencing work under this Subsection
17 shall ensure that the destruction activities comply with the standards set forth in this Article and shall
18 submit an application for approval with a statement setting forth the situation justifying the
19 commencement of the work without prior authorization from the Department along with any
20 appropriate fees within 24 hours from the commencement of any work. In the case where the work
21 commenced on a holiday or weekend, the application shall be submitted to the Department by the close
22 of business on the following business day.

23 (1) Failure to submit an adequate statement justifying the commencement of the work
24 without prior authorization from the Department is a violation of this Article.

1 Sec. 819. APPLICATION FOR APPROVAL. Except as provided for in Section 818(b), any person
2 proposing to destroy a well shall file with the Department a completed written application on forms
3 approved by the Department and submit the appropriate application fees fifteen (15) days prior to the
4 proposed commencement of such activities. The completed application shall include, without
5 limitation, all of the following:

6 (a) The owner of the property on which the well is located.

7 (b) The name and state license number of the general contractor, if applicable, and the C-57
8 license number of the person responsible for the destruction of the well.

9 (c) The work plan for the destruction of the well that complies with the standards set forth in
10 the "Water Well Standards: State of California, California Department of Water Resources Bulletin
11 74," 1968, including all subsequent modifications.

12 (d) Any other information deemed necessary by the Department to ensure adequate protection
13 of groundwater resources.

14 Sec. 820. ISSUANCE OF APPROVAL. Upon the submission of an application for the destruction of
15 a well, the Department shall review such application to ensure that the destruction of the well will be
16 carried out in compliance with the requirements set forth in the "Water Well Standards: State of
17 California, California Department of Water Resources Bulletin 74," 1968, including all subsequent
18 modifications and may modify the work plan to ensure compliance. In reviewing the application, the
19 Department may inspect the well site. The Department shall issue an approval to destroy the well upon
20 a satisfactory showing that the proposed or modified work plan complies with legal requirements and
21 shall required the completion of the well destruction within 90 days of the issuance of the approval.

22 Sec. 821. NUISANCE DECLARED AND ABATEMENT AUTHORITY. The Board of Supervisors
23 finds and declares wells that are: (1) abandoned; (2) constructed or operated in violation of state and
24 local standards, permits or orders; or (3) providing conduits for the spread of contamination from the
25 surface to groundwater, to connected aquifers and to other wells/soil borings and soil borings that are

1 unused to be public nuisances. The Department shall have the authority to abate such nuisance
2 pursuant to Article 11 of this Code.

3 (a) The Department may order the owner of such wells to submit an application for the
4 destruction of such wells within 30 days of the service of the order and destroy the well in accordance
5 with this Article.

6 Sec. 822. UNUSED WELL DISCOVERED. Upon receipt of information by the Department of the
7 existence of any unused well, the Department may order the owner to submit an application for the
8 destruction or approval to maintain of such wells in an inactive state within 30 days for the service of
9 the order and destroy the well or maintain the well as inactive in accordance with this Article.

10 Sec. 823. CONTENT AND SERVICE OF THE DESTRUCTION ORDER.

11 (a) The order shall advise the owner of his or her right to seek an administrative review by
12 requesting an administrative hearing within fifteen (15) days from the service of the order.

13 (b) The Department shall serve the destruction order issued in accordance with Section 821(a)
14 of this Article by certified mail return receipt requested.

15 Sec. 824. ADMINISTRATIVE REVIEW OF DESTRUCTION ORDER. Upon a timely request for
16 an administrative review, the Director shall conduct an administrative hearing in accordance with
17 Section 833 of this Article. The Director shall affirm the destruction order if evidence in the
18 administrative record or produced at the hearing demonstrating that the well in question: (1) is an
19 abandoned well (2) is constructed or operated in violation of state and local standards, permits or
20 orders or (3) presents a potential for contamination or pollution of groundwater.

21 DIVISION IV – ENFORCEMENT

22 Sec. 825. RIGHT OF ENTRY AND INSPECTION. The Department shall have the right to enter
23 any premises, as authorized by this Article, to verify, by inspection and/or testing, compliance with the
24 requirements of this Article. This right of entry shall be exercised only at reasonable hours, and entry
25 shall be made to any premises only with the consent of the owner or occupant thereof, or with a proper

1 inspection warrant. If the owner and/or occupant thereof refuses to give consent, the Department may
2 request the City Attorney to seek an inspection warrant from the Superior Court for the County of San
3 Francisco pursuant to Title 13 of the California Code of Civil Procedure (Section 1822.50 et seq.).
4 Sec. 826. **SPECIFIC INSPECTION AUTHORIZED.** In addition to the inspections set forth below,
5 the Department may inspect the drilling or excavation site at such other times as it deems necessary to
6 carry out the purposes of the Article. The Department is authorized to obtain water samples, as
7 needed.

8 (a) **Annual Inspection.** The Department shall annually inspect each permitted well to ensure
9 that such well is being operated or maintained in compliance with the requirements of this Article and
10 the terms of the permit.

11 (b) **Initial Inspection.** Upon the receipt of an application for a permit, the Department may
12 inspect the drilling or excavation site before the issuance of the permit. If the Department determines
13 that the site conditions require additional protective measures than those proposed in the permit
14 application, the Department may require the relocation of the drilling or excavation site, or impose
15 additional conditions in the permit that is needed to protect groundwater quality and the public health.

16 (c) **Well Seal Inspection.** The Department may inspect the annular space grout depth prior to
17 sealing. Permittee shall notify the Department the commencement of any construction activities at least
18 ten (10) days prior to the commencement of drilling and provide the anticipated time to commence the
19 sealing of the annular space. Permittee shall notify the Department at least forty-eight (48) hours prior
20 to the sealing the annular space. No seal of the annular space shall be tremied unless authorized by
21 the Department. All wells shall be sealed in accordance with the standards set forth in this Article and
22 any applicable permit provisions.

23 (d) **Final Inspection.** The applicant shall notify the Department within seven (7) days of the
24 completion of its work at each drilling site. The Department may make a final inspection after the
25

1 completion of the work to determine whether the well was completed in accordance to the requirements
2 of this Article.

3 (e) **Well Destruction Inspection.** The applicant shall notify the Department the commencement
4 of any well destruction activities at least ten (10) days before the commencement of such activities.

5 (f) **Waiver of Inspection.** The Department may waive the inspection set forth in this Section if
6 any of the following conditions exists:

7 (1) The work will be inspected by the California Regional Water Quality Control Board
8 or the California Department of Health Services or the California Department of
9 Toxic Substances Control and these designated agencies will provide a report to the
10 Department regarding all drilling features.

11 (2) Drilling site is well known to the Department and it is known that no significant
12 threat to groundwater quality exists in the area.

13 (g) **Failure to Notify.**

14 (1) Upon an applicant's failure to notify the Department of the filling of the annular
15 space, the well owner/operator may not operate the well until he/she submits results
16 from approved geophysical testing, including Sonic Log and Gamma Ray Log,
17 demonstrating that the annular space has been properly installed.

18 (2) Upon an applicant's failure to notify the Department of the destruction of a well, the
19 Department may require the well owner/operator to submit a report from the
20 contractor who destroyed the well describing the work performed during the
21 destruction of the well.

22 Sec. 827. **REPORT OF COMPLETION.** Within thirty (30) days of the construction, modification, or
23 destruction of any well, the well owner/operator or his/her contractor shall submit to the Department a
24 copy of the "Report of Completion" (Water Well Drillers Report, Department of Water Resources Form
25 188) in accordance with California Water Code § 13571. Such submission shall not be deemed to

1 relieve the well owner/operator or his/her contractor of their obligation to file such report with the
2 State Department of Water Resources.

3 (a) **Confidentiality of Report.** Pursuant to California Water Code § 13572, the Report of
4 Completion shall be kept confidential unless the release of the report is authorized by that section.
5 Sec. 828. **SUSPENSION AND REVOCATION.** The Department shall have the authority to suspend
6 or revoke any permit issued under this Article upon a showing that the permittee has violated any
7 provisions of the permit or this Article, has misrepresented any material fact in an application or any
8 supporting documents for a permit, or failed to comply with any final non-appeal Director's order.
9 Prior to ordering such suspension or revocation, the Department shall hold an administrative hearing
10 pursuant to Section 833 of this Article.

11 Sec. 829. **ENFORCEMENT.**

12 (a) **Cease and Desist Orders.** Whenever the Department finds that a person in violation of any
13 requirements of this Article, permit or any order issued under this Article, by the Director may:

14 (1) Issue an order directing the person to cease and desist such violation and directing
15 the person to achieve compliance with a detailed time schedule of various actions
16 the person must take to correct or prevent violations of this Article.

17 (2) Issue an order revoking or suspending any permit.

18 (b) Any order issued under this Subsection may require the person to provide such information
19 as the Department deems necessary to explain the nature of the violation. The order issued may
20 require the person to pay the City the costs of any extraordinary inspection or monitoring deemed
21 necessary by the Department because of the violation.

22 (c) **Administrative Complaints.** The Department may issue an administrative complaint,
23 approved as to form by the City Attorney, to any person who is in violation of this Article, any
24 provisions of the permit or a final and non-appealable Director's order issued under this Article. The
25 complaint shall allege the acts or omissions that constitute the basis for liability and the amount of the

1 proposed administrative penalty. The Department shall serve the complaint by personal service or
2 certified mail, return receipt requested, and shall inform the party so served that an administrative
3 hearing provided for in Section 833 shall be conducted within 60 days after the party has been served,
4 unless the party waives its right to the hearing. If the party waives the right to the hearing, the
5 Director shall issue an order setting liability in the amount proposed in the complaint unless the
6 Department and the party have entered into a settlement agreement, in which case, such agreement
7 shall be construed as an order issued by the Director. The settlement agreement shall be approved as
8 to form by the City Attorney. Where the party has waived its right to a hearing or where there is a
9 settlement agreement, the order shall not be subject to review by any court or agency.

10 (d) Referral to the District Attorney. Upon the failure of any person to comply with any
11 requirement of this Article, the Department may refer the matter to the District Attorney for criminal
12 prosecution.

13 (e) Injunctive Relief.

14 (1) Upon the failure of any person to comply with any requirement of this Article,
15 permit, any regulation or any order issued by the Director, the City Attorney, upon
16 request by the Director, may petition the proper court for injunctive relief, payment
17 of civil penalties and any other appropriate remedy, including restraining such
18 person from continuing any prohibited activity and compelling compliance with
19 lawful requirements.

20 (2) In any civil action brought under this Subsection in which a temporary restraining
21 order, preliminary injunction or permanent injunction is sought, it is not necessary
22 to allege or prove at any stage of the proceeding any of the following:

23 (A) Irreparable damage will occur should the temporary restraining order,
24 preliminary injunction or permanent injunction not be issued;

25 (B) The remedy at law is inadequate.

1 The court shall issue a temporary restraining order, preliminary injunction or
2 permanent injunction in a civil action brought under this Article without the
3 allegations and without the proof specified herein.

4 (f) **Notice of Violation.** Upon a determination of violations of this Article, the Department may
5 issue a notice of violation setting forth all violations found and a time period to correct such violation.
6 The owner and operator of the well/soil boring and the owner of the property on which the well/soil
7 boring is situated shall be provided with a copy of the notice of violation.

8 Sec. 830. **PENALTIES.**

9 (a) **Criminal Penalties.** Any person who knowingly and willfully violates the requirements of
10 this Article, or any final and non-appealable order issued by the Department is guilty of a misdemeanor
11 and upon conviction thereof is punishable by a fine of not less than fifty dollars (\$50) and not more
12 than five hundred (\$500) for each day per violation, or by imprisonment in the County Jail for a period
13 not to exceed six (6) months, or by both such fine and imprisonment.

14 (b) **Civil Penalties.** Any person in violation of this Article or any final and non-appealable
15 order issued by the Department shall be liable to the City and County of San Francisco for a civil
16 penalty in an amount not to exceed one thousand dollars (\$1,000) per day per violation. Each day in
17 which the violation continues shall constitute a separate and distinct violation.

18 (c) **Administrative Penalties.** The Department may issue to any person an administrative
19 complaint, approved as to form by the City Attorney, for violating this Article or any final and non-
20 appealable order issued by the Department. The administrative complaint shall allege acts or
21 omissions that constitute a violation and the amount of the proposed administration penalty sought.
22 Such administrative penalty shall be in an amount not to exceed one thousand (\$1,000) per day per
23 violation. Each day in which the violation continues shall constitute a separate and distinct violation.

1 (d) Non-Duplication of Penalty Assessment. Civil penalties shall not be assessed pursuant to
2 Subsection (b) for same violations for which the Department assessed an administrative penalty
3 pursuant to Subsection (c).

4 (e) Factors Considered. In determine the appropriate penalties, the court, the Director shall
5 consider the extent of harm caused by the violation, the nature and persistence of the violation, the
6 frequency of past violations, any action taken to mitigate the violation, and the financial burden to the
7 violator.

8 Sec. 831. LIABILITY FOR DAMAGES. In addition to any penalties provided for in this Article, any
9 person who destroys or causes the destruction of a well in violation of the standards set forth in the
10 "Water Well Standards: State of California, California Department of Water Resources Bulletin 74,"
11 1968, including all subsequent modifications, shall be liable for any damages caused by the improperly
12 destroyed well including, without limitation, the contamination or pollution of the groundwater.

13 Sec. 832. LIENS.

14 (a) Costs and charges incurred by the City as a result of enforcement activities including,
15 without limitations, monitoring and inspection costs, delinquency in the payment of a bill for fees
16 applicable under this Article in excess of thirty (30) days, and any final administrative penalties
17 assessed against a person for violations of this Article shall be an obligation owed to the City by the
18 owner of the property where the well and /or soil boring is located, provided that the owner was given
19 notice and opportunity to contest the assessment of such fees, charges or penalties. Such obligation
20 may be collected by means of the imposition of a lien against such property. The City shall mail to
21 property owner a notice of the amount due and a warning that lien proceedings will be initiated against
22 the property if the amounts are not paid within thirty (30) days after mailing of the notice.

23 (b) Liens shall be created and assessed in accordance with the requirements of Article XX of
24 Chapter 10 of the San Francisco Administrative Code (commencing with Section 10.230).

25 Sec. 833. ADMINISTRATIVE HEARING.

1 (a) The Director shall hold an administrative hearing for the following purposes:

2 (1) To issue or deny a permit application when requested by a person pursuant to this
3 Article;

4 (2) To modify, revoke or suspend a permit that has been issued pursuant to this Article,
5 except as otherwise provided in this Article;

6 (3) To issue an order imposing administrative penalty against a person unless such
7 person waived her or his right to a hearing.

8 (b) Notice of hearing pursuant to this Section shall be given by publication in a newspaper of
9 general circulation in the City and County of San Francisco for at least two (2) days and not less than
10 ten (10) days prior to the date of such hearing. Written notice shall be sent to any interested person,
11 including without limitation the applicant or permittee by certified mail, return receipt requested, at
12 least ten (10) days in advance of the hearing. The notice shall state the nature and purpose of the
13 hearing and the hearing date and location.

14 (c) In any hearing held in accordance with this Article, any party shall have the right to offer
15 testimonial, documentary, and tangible evidence bearing on the issues, to see and copy all documents
16 and other information the City relies on in the proceeding, to be represented by counsel, and to
17 confront and cross-examine any witnesses against them. The hearing may be continued for a
18 reasonable time once upon a showing of good cause by the party requesting such continuance. The
19 request for continuance shall be in writing setting forth the basis for the request and shall be submitted
20 to the Director at least one business day before the hearing.

21 (d) In a hearing to issue an order setting liability for administrative penalties, the Director shall
22 designate a certified court reporter to report all testimonies, the objections made, and the rulings of the
23 objections made by the Director. Fees for the transcripts of the proceedings shall be at the expense of
24 the party requesting the transcript as prescribed by the California Government Code § 69950, and the
25

1 original transcript shall be filed with the Director at the expense of the party ordering the transcript.
2 In all other hearings, the proceedings shall be electronically recorded.

3 (e) The Director shall issue his or her decision and order within thirty (30) days from the
4 conclusion of the hearing. The decision and order shall be in writing, and shall contain a statement of
5 reasons in support of the decision. The decision and order shall be sent by certified mail, return
6 receipt requested, to the owner and operator and by first class mail to all other interested parties.

7 (f) An administrative order imposing an administrative penalty shall be final. Such decision
8 shall advise interested parties of their right to seek a judicial review of the decision pursuant to
9 California Code of Civil Procedures § 1094.6.

10 (g) The Director's order to issue, deny, modify, revoke, suspend, or renew a permit may be
11 appealed to the Board of Appeals in the manner prescribed in Article I, Part III of the San Francisco
12 Municipal Code. Because of the potential threat to the public health and safety of a well that is
13 operating in violation of this Article, the Director's decision to modify, revoke or suspend a permit shall
14 not be automatically stayed upon the filing of an appeal to the Board of Appeal.

15 (h) The Director may designate a hearing officer to preside over any hearing and to act on
16 behalf of the Director in accordance with this Section. The Director may not designate a person to
17 preside over any hearings if such person:

18 (1) has served as investigator, prosecutor, or advocate in the proceeding or its
19 preadjudicative stage; or

20 (2) is subject to the authority, direction or discretion of a person who has served as
21 investigator, prosecutor, or advocate in the proceeding or its preadjudicative stage.

22 (i) Notwithstanding Subsection (h), the Director may designate a person to preside over the
23 hearing if such person participated only as a decision maker or as an advisor to a decision maker in a
24 determination of probable cause or other equivalent preliminary determination in an adjudicative
25 proceeding or preadjudicative stage.

1 (j) The person designated as the hearing officer shall not receive any additional compensation
2 solely for her or his service as the hearing officer.

3 Sec. 834. **DISQUALIFICATION.** The hearing officer is subject to disqualification for bias,
4 prejudice, or interest in the proceeding. It is not alone or in itself grounds for disqualification, without
5 further evidence of bias, prejudice or interest, that the hearing officer:

6 (a) is or is not a member of a racial, ethnic, religious, gender, or similar group and the
7 proceeding involves the rights of that group;

8 (b) has experience, technical competence or specialized knowledge of, or has in any capacity
9 expressed a view on, a legal, factual, or policy issue presented in the proceeding; or

10 (c) has as a public official participated in the drafting of laws or regulations or in the effort to
11 pass or defeat laws or regulations, the meaning, effect or application of which is in issue in
12 the proceeding.

13 **DIVISION V – MISCELLANEOUS PROVISIONS**

14 Sec. 835. **REGULATIONS.**

15 (a) The Director may adopt and, from time to time, may amend reasonable regulations
16 implementing the provisions and intent of this Article. The regulations shall be approved by the
17 Commission at a public hearing. In addition to any notices required by law, before the Commission
18 approves the issuance or amendment of any rule or regulation, the Director shall provide a 30-day
19 public comment period by providing published notice in an official newspaper of general circulation in
20 the City of the intent to issue or amend the rule or regulation.

21 (b) Regulations promulgated by the Director and approved by the Commission shall be
22 maintained in the Office of the Clerk of the Board of Supervisors.

23 Sec. 836. **REMEDIES NOT EXCLUSIVE.** Remedies provide for in this Article are in addition to
24 and do not supersede or limit any and all other remedies, civil or criminal.

25 Sec. 837. **DISCLAIMER OF LIABILITY.**

1 (a) Any degree of protection required by this Article is considered reasonable for regulatory
2 purposes. This Article shall not create liability on the part of the City, or any of its officers or
3 employees for any damages that result from reliance on this Article or any administrative decision
4 lawfully made pursuant to this Article.

5 (b) In undertaking the implementation of this Article, the City is assuming an undertaking only
6 to promote the public health, safety, and general welfare. It is not assuming, nor is it imposing on its
7 officers and employees, an obligation for breach of which it is liable in money damages to any person
8 who claims that such breach proximately caused injury.

9 (c) Except as otherwise required by State or federal law, all inspection specified or authorized
10 by this Article shall be at the discretion of the City and nothing in this Article shall be construed as
11 requiring the City to conduct any such inspection nor shall any actual inspection made imply a duty to
12 conduct any other inspection.

13 Sec. 838. FEES. The Department may charge fees to recover costs incurred in regulating the
14 construction, modification, operation, and destruction of soil borings and wells as set forth in the San
15 Francisco Municipal Code.]

16 Sec. 839. NOT EXEMPTED FROM PAYING OTHER FEES. Payment of fees as provided in this
17 Article does not exempt the person from payment of any other charges which may be levied pursuant to
18 other sections of the San Francisco Municipal Code or written rules and regulations of any department
19 related to the permit.

20 Sec. 840. NOT EXEMPTED FROM COMPLIANCE WITH OTHER LAWS. Nothing in this Article
21 shall be deemed to excuse any person from compliance with the requirements of the California Water
22 Code and any other applicable provisions of local, state or federal laws.

23 Sec. 841. DISCRETIONARY DUTY. Subject to the limitations of due process, notwithstanding any
24 other provision of this Article whenever the words "shall" or "must" are used in establishing a
25 responsibility or duty of the City, its elected or appointed officers, employees, or agents, it is the

1 legislative intent that such words establish a discretionary responsibility or duty requiring the exercise
2 of judgment and discretion.

3 Sec. 842. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Article is
4 for any reason held to be invalid or unconstitutional by a decision of any court of competent
5 jurisdiction, such decision shall not affect the validity of the remaining portions of the Article. The
6 Board of Supervisors hereby declares that it would have passed this Article and each and every section,
7 subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to
8 whether any portion of the Article would be subsequently declared invalid or unconstitutional.

9 Section 3. The San Francisco Business and Tax Regulation Code is hereby amended
10 by amending Section 249.13, to read as follows:

11 **Sec. 249.13. WELLS AND WELL WATER.**

12 (a) Every person, firm or corporation engaged in operating ~~water~~ wells ~~for drinking,~~
13 ~~domestic, industrial or agricultural purposes~~ that require a permit from the Health San Francisco
14 Department of Public Health shall pay an annual license permit fee of \$44 to the Tax Collector.
15 For the purpose of this Section, the term "well" shall have the same meaning as that in Section 659 or
16 Article 12B of the San Francisco Health Code.

17 (b) The license permit fee shall be due and payable annually in advance on the first
18 day of January of each year. Fees for new licenses permit issued prior to or after January 1st,
19 or in any subsequent calendar year, shall be prorated to January 1st, on a monthly basis.

20 Section 4. Section 3101 of the Health Code is hereby amended to read as follows:

21 Sec. 3101. Definitions.

22 In addition to the general definitions applicable to this Code, whenever used in this
23 Article, the following terms shall have the meanings set forth below:

24 (a) "Applicant" means a person applying for any of the following authorizations for
25 subsurface activities on portions of the Hunters Point Shipyard subject to this Ordinance: (i)

1 any building or grading permit that involves the disturbance of at least 50 cubic yards
2 (38.23m3) of soil; (ii) any permit pursuant to the Public Works Code that involves the
3 disturbance of at least 50 cubic yards (38.23m3) of soil; (iii) any improvement plan pursuant to
4 Division 3 of the Subdivision Code that involves the disturbance of at least 50 cubic yards
5 (38.23m3) of soil; (iv) any permit to operate or approval to close an underground tank
6 pursuant to Sections 1120 and 1120.1 of the Health Code that involves the disturbance of at
7 least 50 cubic yards (38.23m3) of soil; or (iv) any well construction or destruction permit
8 pursuant to ~~section 659~~ Article 12B of the Health Code. An Applicant does not include a person
9 applying for a permit for the sole purpose of conducting environmental characterization.

10 (b) "Director" means the Director of the San Francisco Department of Public Health
11 or the Director's designee.

12 (c) "GIS" is a geographic information system for the Hunters Point Shipyard. The
13 GIS is a computer-based system containing site-specific environmental information.

14 (d) "Improvement Plan" means an improvement plan as required under the
15 Subdivision Map Act, California Government Code Sections 66410 et seq.

16 (e) "Parcel A" means that parcel or parcels of land of the Hunters Point Shipyard as
17 indicated on the Map filed with the Recorder of the City and County of San Francisco on
18 December 3, 2004 situated in the City and County of San Francisco, that was transferred to
19 the San Francisco Redevelopment Agency by the U.S. Navy.

20 (f) "Prescribed Subsurface Activity Area" means the specific location and horizontal
21 and vertical extent of the proposed disturbance, excavation, grading or other subsurface
22 activity defined using coordinates compatible with the GIS to the extent feasible.

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25 APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

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By: 
JOSHUA MILSTEIN
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 050547

Date Passed:

Ordinance amending the San Francisco Health Code by deleting Section 659 and adding a new Article 12B to establish a regulatory program for the construction, modification, operation, and destruction of soil borings and wells, including both non-production and water wells, to protect the public health and safety and the integrity of the City's groundwater resources by requiring anyone who proposes to construct, modify, operate, maintain or destroy a well or soil boring to obtain a permit; amending Section 249.13 of the San Francisco Business and Tax Regulations Code to set forth the annual fee for the permit; and amending Section 3101 of the Health Code to renumber the reference to section 659 of the Health Code to Article 12B.

May 24, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

June 7, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 050547

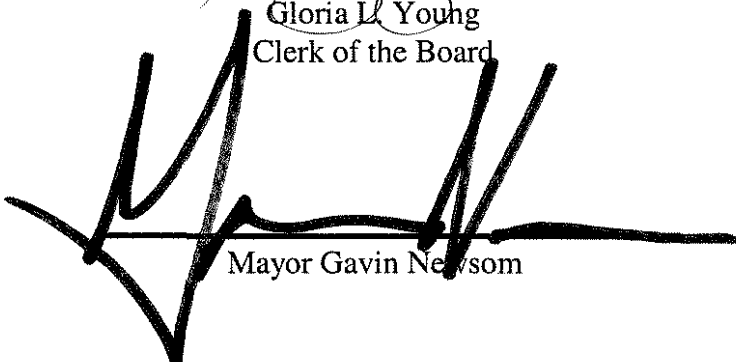
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on June 7, 2005 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

JUN 10 2005

Date Approved



Mayor Gavin Newsom