ORDINANCE NO. 3604

AN ORDINANCE REPEALING UNEODIFIED TULARE COUNTY ORDINANCES 2924, 3007, 3016, 3063, 3064, 3065, 3068, 3071, 3097, and 3428; AMENDING PART VIII, CHAPTER 3, SECTIONS 8-03-1100 and 8-03-1150; AMENDING PART VIII, CHAPTER 5, SECTIONS 8-05-1145 and 8-05-1195; AND ADDING PART VIII CHAPTER 6 OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO WATER AND SEWER FEES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. TULARE COUNTY ORDINANCES 2924, 3007, 3016, 3063, 3064, 3065, 3068, 3071, 3097, and 3428 are hereby repealed in their entirety.

Section 2. PART VIII, CHAPTER 3, SECTION 8-03-1025 is hereby amended to delete item (u), the definition of "Sewer Fee Ordinance."

Section 3. PART VIII, CHAPTER 3, SECTION 8-03-1100 is hereby amended to read:
"From time to time, the Board of Supervisors may establish fees for the issuance of permits under Section 8-03-1095 and the Sewer Improvements Standards Ordinance of Tulare County."

Section 4. PART VIII, CHAPTER 3, SECTION 8-03-1150 is hereby amended to read:
"From time to time, the Board of Supervisors may establish fees or charges for the sewer services provided, including but not limited to connection fees and charges, sewer service rates and charges, stand-by charges, vacancy charges, reestablishment fees and charges, delinquency charges, and such other fees and charges as the Board finds reasonable and necessary to pay the cost of providing such service. Such fees and tolls shall be in such a manner and may be collectible, including placement of delinquent fees on the tax rolls, as provided herein in Chapter 6 of this part."

Section 5. PART VIII, CHAPTER 5, SECTION 8-05-1025 is hereby amended to delete item (i), the definition of "Water Fee Ordinance."

Section 6. PART VIII, CHAPTER 5, SECTION 8-05-1145 is hereby amended to read:
"From time to time, the Board of Supervisors may establish by Ordinance fees for the issuance of permits under section 8-05-1140."

Section 7. PART VIII, CHAPTER 5, SECTION 8-05-1195 is hereby amended to read:
"From time to time, the Board of Supervisors may establish fees or charges for the water services provided, including but not limited to connection fees and charges, water service rates and charges, stand-by charges, vacancy charges, reestablishment fees and charges as the Board find to be reasonably related to the cost of the service provided. Such fees and tolls shall be adopted, and may be collectible, including placement of delinquent fees on the tax rolls, in the manner set out herein."

**Section 8.** PART VIII, CHAPTER 6 is hereby added, and shall read as follows:

**CHAPTER 6. WATER AND SEWER FEES**

**ARTICLE 1. GENERAL PROVISIONS**

**8-06-1000 LEGISLATIVE AUTHORIZATION:**

Pursuant to the authority granted it by Government Code section 25690 and section 25210.1 et seq. (County Service Area Law), the Board of Supervisors does enact this Chapter.

**8-06-1005 PURPOSE:**

It is the purpose of this Chapter to establish the procedures to prescribe, revise, and collect fees, tolls, rates, rentals, or other charges including, but not limited to; connection charges, construction inspection fees, service rate charges, stand-by or availability fees, vacancy charges, service reestablishment fees, and late or delinquency charges, for water and sewer service provided by the County of Tulare within County Service Area No. 1 and County Service Area No. 2. Such fees, tolls, rates, rentals or other charges shall also be used to cover the costs incurred or to be incurred for acquisition, construction, reconstruction, maintenance and operation of such water systems and water distribution facilities, and to repay any federal or state loans or advances to the County for the construction or reconstruction of such water system facilities. Such fees, tolls, rates, rentals or other charges may vary by Zone of Benefit based upon the extent of benefit to each Zone derived from services provided to the property and debt incurred in initial construction of the benefit within each Zone of Benefit.

**8-06-1010 NOT EXCLUSIVE REGULATION:**

This Chapter is not the exclusive regulation of water or sewer fees, their setting, or their collection. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore and hereafter enacted by the State, the County, or any other legal entity or agency having jurisdiction.

**8-06-1015 ADMINISTRATION AND ENFORCEMENT:**

(a) Except as otherwise provided, this Chapter shall be administered and enforced by the Public Works Director or his or her deputy.
(b) The Public Works Director, when he or she has probable cause to believe that a violation exists as defined by sections 8-06-1030 of this Part, may enter, inspect, and investigate any property located within the County.

(Amended by Ord. No. 3559, effective 6-20-19)

8-06-1020 APPLICATION:
This Chapter applies to all land owned by any individual or individual firm, partnership, joint venture, association, corporation, estate or trust within the Delft Colony, Seville, Yettem, Tooleville, and Traver Zones of Benefit within County Service Area No. 1 and in County Service Area No. 2 of the County of Tulare. In addition, it applies to any land owned by the United States and any agency of the United States, the State of California and any agency of the State, any city, and a public district or political subdivision of the State of California within such areas insofar as it is legally possible to enforce this Chapter, or any portion thereof, against such entities.

8-06-1025 DEFINITIONS:
For the purposes of this Chapter, the following words and phrases shall have the following meaning:

(a) "Assessment" means any levy or charge upon real property for a special benefit conferred upon the real property. This term includes, but is not limited to a "special assessment", "benefit assessment", "maintenance assessment" and: special assessment tax. An assessment that is not a charge upon real property for a special benefit conferred upon the real property is not an "assessment" for purposes of this Chapter and article XIIID, section 2(b) of the California Constitution.

(b) "Assessment roll" means the assessment roll upon which general taxes of the County of Tulare are collected.

(c) "Auditor" means the financial officer of the County of Tulare.

(d) "Board" or "Board of Supervisors" means the Board of Supervisors of the County of Tulare.

(e) "Building" means any structure used for any purpose which contain a fixture, plumbing system or sanitary facility of any type.

(f) "Business days" means every day on which County offices generally are open to transact business which excludes Saturdays, Sundays, and County holidays.

(g) "Clerk" means the clerk of the Board of Supervisors.
(h) "Chambers" means the place where the regular meetings of the legislative body of the Board of Supervisors are held.

(i) "Connected Load" means a building, or other use, connected to and discharging wastewater to a County sewerage system for which a bill is rendered by the County or its designated agent.

(j) "County" means the County of Tulare or the unincorporated territory within the County of Tulare.

(k) "County Service Area No. 1" means the formation of County Service Area No. 1 created under Board Resolution No. 71-3219 under County Service Area Law SB No. 1458; CSA No. 1 is comprised of the territory in Subdivision Tract No. 513.

(l) "County Service Area No. 2" means the formation of County Service Area No. 2 created under Board Resolution No. 81-2594 under County Service Area Law SB No. 1458; CSA No. 2 is comprised of the territory in Wells Tract Subdivision.

(m) "County Recorder" means the Recorder of the County or county official or designated employee of that office.

(n) "Dwelling Unit" means any structure, house or unit or portion thereof arranged or intended to be occupied by not more than one family and having facilities for sleeping, eating, cooking and/or sanitary purposes.

(o) "Fees, rates or charges" means fees, tolls, rates, rentals or other charges established to cover the cost of service and facilities furnished by the County of Tulare in connection with its water, sewer or sewerage systems.

(p) "House" means a detached single family dwelling.

(q) "Record Owners of improved real property" means and includes persons who are recorded on the books of the County Assessor/Clerk-Recorder and County Tax Collector as the owners of lots or parcels of land that are improved by buildings that would be subject to service by Public Sewage System under the provisions of this chapter.

(r) "Parcel" means the division of land described as a parcel on the County tax rolls for property tax purposes. However, if such division of land is further divided into legal lots of record, each such lot shall be a separate parcel within this definition.
"Person" means any individual, firm, company, partnership, association, organization, the United States of America, the State of California, a political subdivision, governmental agency or other public or municipal corporation.

"Public Sewage System" means the County of Tulare sewage works installed within the areas described in section 8-03-1020.

"Public Water System" means the County of Tulare water works installed within the areas described in section 8-05-1020.

"Public Works Director" means the Resource Management Agency Director.

"Service reestablishment fee" means the fee to cover the cost to restore water services after such services have been discontinued.

"Sewage" (Wastewater) means a combination of the water carried wastes from residential, commercial institutional and industrial buildings, together with such ground, surface and storm waters as may be present.

"Sewage Works" includes sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary, useful, or convenient, for the collection, treatment, purification, or disposal of sewage, and necessary lands, right-of-way, or other property.

"Wastes" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing manufacturing or processing operation of whatever nature.

"Wastewater" (Sewage) means the same as "sewage."

"Water Improvement Standards" means the Improvement Standards of Tulare County adopted by the Board of Supervisors effective January 1, 1992, by Resolution No. 91-1409, as amended from time to time, and as applicable to water works.

"Water Works" includes wells, pumps, tanks, treatment facilities, reservoirs, pipelines, meters, and all other works necessary, useful or convenient to distribute and sell water for municipal purposes.

"Sewer Improvement Standards Ordinance" means uncodified County of Tulare Ordinance No. 2925, as adopted and amended from time to time by the Board of Supervisors.
(ee) "Standby charge" means a fee against an unimproved parcel of land for the purpose of payment of a pro rata share of the cost of the water distribution facilities available to and thereby benefiting such parcel.

(ff) "Tax Collector" means the officer who collects general taxes for the County.

(gg) "Vacancy Service" means for building, or other use, connected to a county water or sewer system, but which is neither using water from the County system nor discharging wastewater to the County system and which is being billed a vacancy charge by the County or its designated agent.

(hh) "Vacant Category" means a building or other use for which vacancy service has been requested.

(ii) "Zone of Benefit" means an area established under Section 25217 of the Government Code by the Tulare County Board of Supervisors to receive different authorized services, provide different levels of service, provide different authorized facilities, or raise additional revenues with specific areas of a county service area.

8-06-1030 PROHIBITIONS AND REQUIREMENTS

Unless otherwise allowed under the Sewer Improvements Standard Ordinance, the maintenance or use of cesspools, septic tanks, or other private means of sewage disposal within the areas described in Section 8-06-1020 of this part on parcels adjacent to or abutting streets or roads in which a public sewage system is installed is a public nuisance and is hereby prohibited.

8-06-1035 FEE SETTING: RATES

(a) It is the Board of Supervisor's intent in adopting this ordinance to ensure that the establishment of fees, tolls, rates, rentals, or other charges including, but not limited to, permit application fees, connection charges, construction inspection fees, service rate charges, stand-by or availability fees, vacancy charges, service reestablishment fees, and late or delinquency, and for water and sewer service provided by the County of Tulare within County Service Area No. 1 and County Service Area No. 2, complies with articles XIIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation act and the provisions of other statutes authorizing the levy of assessments.

(b) Only Special benefits may be assessed, and the amount of each assessment shall be each identified parcel's proportionate share of the public improvement or property related service.
based upon that parcel's special benefit from the improvement or service. The amount shall be proportional to, and no greater than the special benefits conferred upon the property.

(c) For purposes of determining the amount of the assessment:

(1) A Special benefit means a particular and distinct benefit over and above general benefits conferred on real property located in the assessment district or to the public at large;

(2) Special benefits are those benefits that property assessed receives (due to the improvement or service) in excess of the general public benefit;

(3) The fact that the other property within the city or within the area will be, to a greater or lesser extent, specially benefitted by the improvement or service, will not have the effect of depriving assessed property of its character as specially benefitted property;

(4) Special benefit is immediate and of such a character as can be seen as traced.

General benefits are remote and sometimes contingent.

(d) The Department may file an engineer's report that complies with the applicable state statute authorizing the assessment and with article XLIID, section 4 of the California Constitution. This report shall identify the improvement or service to be funded by the assessment; its estimated cost, including all planning, administrative, and ancillary costs authorized by law to be funded by the assessment; the entire special benefit attributable to the improvement or service, which benefit shall be separated from the general benefit, if any.

(1) Each parcel assessed must be specifically benefitted by the improvement or service.

(2) The report shall also provide evidence upon which the Board may find that a special benefit exists; and the report shall also apportion the assessment to each parcel in the Zone of Benefit according to its respective special benefit.

(e) The following guidelines shall apply to giving notice of an assessment

(1) The record owner(s) of improved real property of each parcel to be assessed shall be determined from the last equalized property tax roll. All record owners of the parcel shall receive written notice by mail of the proposed fee or charge. If the property tax roll indicates more than one owner, each owner shall receive notice.

(2) Such notice must be mailed at least forty-five (45) days prior to the date set for the public hearing on the assessment.

(3) Failure of any person to receive the notice shall not invalidate the proceedings.

(4) The cost of providing notice shall be included as a cost of the assessment district.

(f) At the public hearing, the Board shall hear all public testimony regarding the proposed assessment and accept ballots until the close of the public hearing, which may be continued from time to time.
(1) The Board may impose reasonable time limits on both the length of the entire hearing and the length of each speaker’s testimony.

(2) At the conclusion of the hearing, the Clerk shall complete tabulation of the ballots, including those received during the public hearing.

(3) Any owner or occupant of a parcel to be affected by a proposed assessment or fee may file a written protest of the assessment or fee on behalf of the parcel pursuant to Government Code section 53755(b).

(4) If it is not possible to tabulate the ballots on the same day as the public hearing, or if additional time is necessary for public testimony, the Board may continue the public hearing to a later date to receive additional testimony, information, or to finish tabulating the ballots, or may close the public hearing and continue the item to a future meeting to finish tabulating the ballots.

(g) The Clerk shall determine the validity of all ballots. All ballots will be accepted as valid except those listed below:

(1) A photocopy of a ballot which does not contain an original signature
(2) An unsigned ballot
(3) A ballot which lacks an identifiable "yes" or "no" vote;
(4) A ballot which appears to be tampered with or otherwise invalid based upon its appearance or method of deliver or other circumstances;
(5) A ballot which is printed on a form which is different than the form of ballot provided by the County
(6) A ballot submitted to the County via e-mail
(7) A ballot not returned in County-issued “security envelope”
(8) The Clerk’s decision, after consultation with the County Counsel that a ballot is invalid, shall be final and may not be appealed to the Board.
(9) Only one written protest for parcel, filed by an owner or tenant of the parcel, shall be counted in calculating a majority protest to a proposed or new fee or charge subject to the requirements of Section 6 of Article XIIIID of the California Constitution.

8-06-1040 FEE COLLECTION

(a) All bills for water or sewer service shall be due upon presentation and shall become delinquent thirty (30) days after the date of the billing. The service charges shall be billed by the County or its designated agent to the owner or to an agent representing the owner, if the owner requests that such agent became the customer of record in writing. Where conditions allow a renter to become the customer of record, said renter shall place a deposit with the County or its designated agent to insure payment.
(b) In addition to, or as an alternative to other methods, and at the option of the County, the County may file a civil action for the collection of any amounts due and unpaid. This remedy shall be cumulative and in addition to the means of enforcing payment of the sum required to be paid by this Ordinance.

(c) In the event of a delinquency in the payment of any fee or charge, the County shall mail a notice of delinquency to the owner and/or customer. The notice shall state that, unless the delinquency is paid within ten (10) days of the date of the notice, the water service may be subject to disconnection and service will be discontinued. The notice shall also include a statement that the owner and/or customer may appeal the determination of delinquency to the Board pursuant to Section 165 of the Tulare County Ordinance Code. In the event of an appeal, the water service shall not be disconnected, and service discontinued pending the outcome of the appeal.

(d) The Board may waive or reduce any fees or charges, including deposits, authorize the amortization of any fees or charge, including deposits, or otherwise allow an alternative means of payment of fees or charges by written agreement with an owner or authorized agent of an owner upon request to do so.

8-06-1045 FEE COLLECTION: ASSESSMENT OF DELINQUENT ACCOUNT BALANCE

Pursuant to Government Code Section 25216.5, the County may collect any water or sewer service fee which remains unpaid for a period of sixty (60) or more days after the date upon which they were billed, and/or any standby charges, vacancy charges or other charges that remain unpaid on the first day of the month before the month in which the Board is required by law to levy the amount of taxes required for County purposes, as follows:

(a) Once a year the Board shall cause to be prepared a report of delinquent fees and charges. The Board shall fix a time, date and place for hearing the report and any objections or protests thereto.

(b) The Board shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten (10) days prior to the date of the hearing.

(c) At the hearing the Board shall hear any objections or protests of landowners liable to be assessed for delinquent fees and charges. The Board may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

(d) The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees and charges. A certified copy of the confirmed report shall be filed with the
Auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the County Recorder, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary County ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of County ad valorem property taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed shall not attach to such real property and the delinquent fees and charges, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

(e) If the person who appears as the owner of the respective parcels of land on the current assessment roll is different from the person to whom the bills for water service fees and charges were sent, the provisions of this section shall apply only if:
1. Copies of any unpaid bills for such fees and charges, and
2. Copies of any notice of hearing of a report of delinquent fees and charges were mailed to such person who appears as the owner of the respective parcels of land.

Section 9 The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof [a summary] shall be published once in Sun-Gazette a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.
THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the 5th day of April, 2022, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: SUPERVISORS MICARI, VANDER POEL, SHUKLIAN, VALERO AND TOWNSEND
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

COUNTY OF TULARE

By:
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/ Clerk of the Board of Supervisors

By: _______ [Signature]
Deputy Clerk

Approved as to Form:

By: [Signature] Matthew Pierce
Deputy County Counsel
Matter No. 20191962