

ORDINANCE NO. _____

AN URGENCY ORDINANCE TEMPORARILY EXTENDING THE REVIEW OF SUSTAINABILITY REQUIREMENTS BY PARTICIPATING GROUNDWATER SUSTAINABILITY AGENCIES FOR CERTAIN GROUNDWATER WELL PERMITTING UNDER CHAPTER 13 (“CONSTRUCTION OF WELLS”) OF PART IV (“HEALTH, SAFETY AND SANITATION”) OF THE TULARE COUNTY ORDINANCE CODE.

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

Section 1. BACKGROUND AND PURPOSE

Governor Newsom issued Executive Order (E.O.) N-7-22 on March 28, 2022, which *inter alia* required counties to consider groundwater sustainability and subsidence and obtain verification from any applicable groundwater sustainability agency (GSA) before issuing permits for water wells in certain basins subject to the Sustainable Groundwater Management Act (SGMA) with exceptions for certain wells for domestic water users and wells for certain public water systems. These requirements applied to most non-domestic groundwater well permit applications in the valley floor of Tulare County.

Governor Newsom issued E.O. N-3-23 on February 13, 2023, which *inter alia* supplanted those groundwater well permitting requirements under E.O. N-7-22 with similar requirements that also exempted groundwater well permits for certain wells replacing other existing permitted wells that are impacted by eminent domain and threat of condemnation.

Governor Newsom issued E.O. N-3-24 on September 5, 2024, which *inter alia* rescinded these groundwater well permitting requirements, noting improved drought conditions statewide.

The California Department of Water Resources is currently updating Bulletin 74 regarding California Well Standards, and the State Water Resources Control Board (SWRCB) is expected to adopt these standards and issue a statewide model ordinance once completed. The County intends to update its permanent well permitting ordinance once the updates to Bulletin 74 are finalized.

This Ordinance will provide a temporary review process by continuing existing practices until the County passes a new permanent ordinance after the SWRCB formally adopts an updated Bulletin 74. The updated permitting ordinance is expected to include provisions for review of groundwater well permits by the appropriate GSAs. This Urgency Ordinance will therefore reinstate and continue the process for GSAs to review groundwater well permits within their territory established under the aforementioned executive orders.

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Section 2. DECLARATION OF URGENCY

Groundwater is an important source of water throughout Tulare County. Groundwater sustainability is important for the long-term health, safety, and security of the County and its residents.

SGMA is a series of laws intended to promote groundwater sustainability throughout the state, including through the creation of GSAs. GSAs were granted the authority to develop, adopt, and implement a Groundwater Sustainability Plan (GSP), with the intention of reaching sustainability in medium- and high-priority groundwater basins, including addressing related groundwater sustainability indicators such as groundwater levels, groundwater storage, groundwater quality, land subsidence, and interconnected surface waters. Several different GSAs have jurisdiction over parts of Tulare County across three groundwater basins, which are considered medium- or high-priority basins under SGMA.

After E.O. N-3-24 was issued, County staff met with multiple GSAs, each of which acknowledged that groundwater management is complex and that GSA review of well permits for consistency with the relevant GSPs was an important tool in reach of sustainability.

At the time of this Ordinance, all of Tulare County is considered abnormally dry, with more than one quarter of the County currently in a drought condition according to National Integrated Drought Information System data available on Drought.gov. Dry and drought conditions tend to exacerbate groundwater overdraw and complicate efforts and programs intended to reach sustainability.

As a result of ongoing abnormally dry and drought conditions, County staff have discussed the potential to reinstate the GSA review process from E.O. N-3-23 with several GSAs, each of which have expressed an interest in continuing the review process as a necessary function both in the pursuit of groundwater sustainability and in combatting the effects of abnormally dry and drought conditions.

Based on these facts and circumstances, this Ordinance is declared to be an urgency ordinance necessary for the immediate preservation of the public peace, health, or safety of Tulare County and shall become effective immediately upon adoption by a four-fifths vote of the Board of Supervisors.

Section 3. DEFINITIONS

(a) For the purpose of this Ordinance, the definitions in Section 4-13-1005 of the Tulare County Ordinance Code (“Definitions”) are hereby incorporated by reference.

(b) For the purpose of this Ordinance, the terms “groundwater sustainability agency” and “groundwater sustainability plan,” herein abbreviated as “GSA” and “GSP,” respectively, have the same definition as in Section 10721 of the Water Code.

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Section 4. ELECTIVE PARTICIPATION

Tulare County recognizes that reviewing groundwater well permit applications creates a cost and administrative burden on GSAs. To this end, the County will offer each GSA the opportunity to voluntarily participate in the review and approval of well permit applications.

GSAs may elect to participate by submitting a letter to the Health Officer that such participation is consistent with its implementation of its duly adopted GSP and would help the GSA achieve the goals therein.

Such review shall extend only to the GSA's jurisdiction that is within the well permitting authority of Tulare County and within a medium- or high-priority basin under SGMA.

GSAs may terminate such participation at any time by submitting a letter to the Health Officer.

This Ordinance and the review process contained herein shall not apply to any GSA that has not elected to participate or that has withdrawn its participation.

Section 5. NO COMPENSATION

The County will not compensate GSAs for their review of well permit applications or for other costs that GSAs may incur related to this Ordinance.

Section 6. GSA REVIEW OF GROUNDWATER WELL PERMITS

The Health Officer shall submit all groundwater well permit applications to the appropriate GSA by electronic mail for review. Within thirty days of submission of an application, GSAs shall confirm that the proposed well and its related extraction:

- (a) Would not be inconsistent with any sustainable groundwater management program established in any applicable GSP;
- (b) Would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan;
- (c) Is not likely to interfere with the production and function of existing nearby wells;
and
- (d) Is not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

The Health Officer shall deny any well permit where the appropriate GSA has identified that the proposed well, or its related extraction, would fail to meet any of these criteria.

Failure by a GSA to respond to the submission of an application within 60 days shall waive the GSA's right to review that application under this Ordinance.

Section 7. EXEMPTIONS

This Ordinance shall not apply to permits for any of the following:

(a) Wells that will provide less than two acre-feet per year of groundwater for individual domestic users.

(b) Wells that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.

(c) Wells that are replacing existing, currently permitted wells with new wells that will produce an equivalent quantity of water as the well being replaced, when the existing well is being replaced because it has been acquired by eminent domain or acquired while under threat of condemnation.

(d) Monitoring wells.

(e) Minor alterations of production wells that do not increase the discharge rate for the well or significantly alter the depth interval from which groundwater is extracted with the well. Minor alterations may include activities such as installing casing liners, patches, or other work, although such work must not modify the well in a manner that increases the total groundwater pumping capacity.

Section 8. EXISTING PERMITTING REQUIREMENTS AND ADMINISTRATIVE VARIANCE

This Ordinance is not intended to replace, reduce, eliminate, or alter any existing permitting requirements for groundwater wells. All laws, policies, and procedures for well permitting in place at the time of passage are intended to remain in full force and effect, except to the extent required to implement this Ordinance. Any well permit that may otherwise be denied under this Ordinance may still be granted in accordance with Section 4-13-1003 ("Administrative Variance") of the Tulare County Ordinance Code.

Section 9. INTERIM STATUS

This Ordinance is intended to continue a review process previously required by E.O.s N-7-22 and N-3-23. This Ordinance will terminate upon the earliest of the following dates:

(a) The effective date of a new, comprehensive well ordinance approved by the County of Tulare; or

(b) The effective date of an ordinance repealing this Ordinance; or

(c) December 31, 2031.

Section 10. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, interpretation, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, without regard to the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof would be subsequently declared invalid or unconstitutional.

Section 11. EFFECTIVE DATE

This Ordinance is intended to protect the public peace, health, or safety pursuant to Government Code section 25123, subdivision (d), and shall be in full force and effect immediately upon a four-fifths vote of the Board of Supervisors.

Section 12. PUBLICATION

Within fifteen (15) days after adoption of this Ordinance, this Ordinance shall be published once in the *Sun-Gazette*, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors members voting for and against the same.

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THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Pete Vander Poel, Chairman, Board of Supervisors

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

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By Ross Miller
Deputy
Matter # 2025183