

ORDINANCE NO. 5158

AN URGENCY ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING CHAPTER 34A OF THE SANTA BARBARA COUNTY CODE TO ADD ARTICLE II, SECTIONS 34A-22 TO 34A-30 PURSUANT TO GOVERNMENT CODE SECTIONS 25123(d) AND 25131 AND CALIFORNIA GOVERNOR NEWSOM'S EXECUTIVE ORDER N-7-22, TO AMEND WATER WELL PERMITTING REQUIREMENTS UNTIL THE SANTA BARBARA COUNTY LOCAL DROUGHT EMERGENCY PROCLAMATION IS TERMINATED AND THE GOVERNOR'S EXECUTIVE ORDER N-7-22, AS MAY BE SUPERSEDED, IS RESCINDED

The Board of Supervisors of the County of Santa Barbara hereby ordains as follows:

**SECTION 1. Emergency Findings.** This urgency ordinance is adopted pursuant to California Government Code Sections 25123(d) and 25131 and shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors. The Board of Supervisors finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following declaration of facts constituting the urgency:

1. Chapter 12, Sec. 12-5(a) of the Santa Barbara County Code, empowers the County of Santa Barbara, Director of Emergency Services, to proclaim a local emergency if the Board of Supervisors is not in session; and
2. Section 8558(c) of the Government Code defines a "Local Emergency" as: "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat"; and
3. Drought conditions of extreme peril to the safety of persons and property have arisen within the County of Santa Barbara; and
4. On March 19, 2019 the Santa Barbara County Board of Supervisors passed Resolution 19-93 Concern Regarding Prolonged Water Supply Shortage within Santa Barbara County, which recognized the long-term impacts of that drought and the need for Water Purveyors, the County and its residents to continue to work together to conserve and to improve water security from future droughts; and

5. Groundwater Sustainability Agencies have been established within Santa Barbara County, and the groundwater levels in many of these basins are at or near historical lows; and
6. On July 8, 2021, the Governor proclaimed a State of Emergency to exist due to drought conditions in the County of Santa Barbara; and
7. On July 13, 2021, the Board of Supervisors found that conditions of extreme peril warranted and necessitated a Proclamation of Local Emergency Caused by Drought Conditions, and has reviewed the need for the continued existence of the Proclamation of Local Emergency at least every 60 days; and
8. Drought conditions of extreme peril to the safety of persons and property in Santa Barbara County persist, and warrant the Proclamation of Local Emergency Caused by Drought Conditions; and
9. The ongoing drought will have significant, immediate impacts on communities with vulnerable groundwater supplies and farms that rely on irrigation to grow food and fiber; and
10. Coordination between local entities that approve permits for new groundwater wells and local groundwater sustainability agencies is important to achieving sustainable groundwater management; and
11. On March 28, 2022, the Governor issued Executive Order N-7-22 due to the extreme and expanding drought conditions, which declared in part that in order to protect health, safety, and the environment during this drought emergency, a county shall not issue a permit for a new groundwater well or for an alteration of an existing well without first determining that such well would not decrease the likelihood of achieving sustainable levels of groundwater as determined by the applicable Groundwater Sustainability Agency, nor interfere with existing nearby wells, nor cause subsidence that would damage structures; and
12. For the immediate protection of health, safety, and the environment, the emergency drought conditions warrant and necessitate that the County adopt this urgency ordinance to establish temporary local drought emergency well permitting provisions consistent with Executive Order N-7-22, as may be superseded; and
13. These provisions to implement local drought emergency water well permitting provisions shall be in effect only until the County's Proclamation of Local Emergency Caused by Drought Conditions is terminated and the Governor's Executive Order related to urgency water well permitting provisions has been rescinded.

**SECTION 2.** Chapter 34A of the Santa Barbara County Code is hereby amended to incorporate sections 34A-1 through 34A-21 inclusive, as Article I, and add sections 34A-22 through 34A-30 inclusive, as Article II, which read as follows:

**TEMPORARY WATER WELL PERMITTING ORDINANCE RELATED TO  
DROUGHT EMERGENCY AND EXECUTIVE ORDER**

Sections:

- 34A-22 Drought Emergency. Purpose.**
- 34A-23 Drought Emergency. Definitions.**
- 34A-24 Drought Emergency. Permit required.**
- 34A-25 Drought Emergency. Permit procedure for construction of new wells or alteration of existing wells.**
- 34A-26 Drought Emergency. Permit procedure for individual domestic and public water supply wells.**
- 34A-27 Drought Emergency. Permit procedure for replacement wells.**
- 34A-28 Drought Emergency. Permit issuance.**
- 34A-29 Drought Emergency. Severability.**
- 34A-30 Drought Emergency. Effective Date.**

**• Sec. 34A-22 – Drought Emergency. Purpose.**

This urgency ordinance adopts and defines local drought emergency water well permitting provisions established in response to the Governor’s Executive Order N-7-22 as may be superseded. This urgency ordinance shall be effective until the County’s Proclamation of Local Emergency Caused by Drought Conditions is terminated and the Executive Order N-7-22, as may be superseded, is rescinded. The administrative authority may adopt policies and procedures to implement and administer this urgency ordinance and the Executive Order as may be superseded within the unincorporated area of Santa Barbara County.

Unless otherwise set forth in this this urgency ordinance, this urgency ordinance does not relieve a water well applicant’s obligation to comply with Chapter 34-A, California Water Well Standards, or with any sustainable groundwater management program or basin adjudication as established under the authority of the State of California or its Courts.

County Code Chapter 34A, including, but not limited to, sections 34A-18 and 34A-19, shall apply to the provisions of this chapter. Any violation of the provisions of this urgency ordinance by any person is subject to administrative fines as provided in chapter 24A of this Code.

**• Sec. 34A-23 – Drought Emergency. Definitions.**

- (a) The following words and phrases, whenever used in this urgency ordinance, shall be constructed as defined in this section. Unless the context requires otherwise, the definitions set forth in Sec. 34A-2 shall still govern the construction of this chapter.
- (1) "Alteration of an existing well" means the "modification" of a water well as defined in Sec. 34A-2 of this chapter, in order to increase the production capacity of the existing well as originally permitted or constructed
  - (2) "Individual domestic well" means a well that provides less than two acre-feet per year of groundwater and is used to supply water for domestic needs for an individual residence or to systems having four or less residential service connections.
  - (3) "Public water supply well" means a well that serves a public water system or a state small water system as defined in section 116275 of the California Health and Safety Code for provision of piped water to the public for human consumption.
  - (4) "Nearby well" means any existing water well located within 1,000 feet of the proposed new well or alteration of an existing well.
  - (5) "New well" means a new groundwater well or replacement of an existing well with a new well that exceeds the production capacity of the existing well as originally permitted or constructed. This definition shall not include geothermal heat exchange wells, cathodic protection wells, or wells constructed for the purpose of monitoring or abating contaminants in underground waters that are associated with a hazardous materials release.
  - (6) "Not likely to cause subsidence" means that the soil geology at the well location and distance to nearby structures is such that the proposed new well will not result in any structural damage to a building or infrastructure.
  - (7) "Not likely to interfere" means that the estimated average annual yield and peak pumping capacity of groundwater from the proposed new well will not reduce the static groundwater level within a nearby well greater than 5 feet over a one-year period.
  - (8) "Replacement Well" means a water well to be constructed of equal or less production capacity as an existing well as originally permitted or constructed, when said existing well shall be destroyed under permit within 90 days of completion of the replacement well. This definition does not apply to individual domestic or public water supply wells.
  - (9) "Water well" or "well" means the same as defined in Sec. 34A-2 of this Chapter.

• **Sec. 34A-24 – Drought Emergency. Permit required.**

- (a) An application for a permit required by this chapter shall be made in writing on such forms as may be prescribed by the administrative authority.
- (b) Unless disallowed by State law, at the time of the filing of an application, the application shall be accompanied by an indemnification agreement signed by the legal owner to defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, an approval of the application by the County.
- (c) The application shall be accompanied by the appropriate fee as established by resolution of the Santa Barbara County Board of Supervisors. No part of said fee shall be refundable except as provided in such fee resolution.
- (d) No person may construct, modify or destroy a well without the permit required by this urgency ordinance, notwithstanding the emergency provisions of Section 34A-10.

**• Sec. 34A-25 – Drought Emergency. Permit procedure for construction of new wells or alteration of existing wells.**

- (a) An application for a new well construction permit or for alteration of an existing well shall include all required items of Sec 34A-4, and the following intended use and location information:
  - (1) Intended use of the proposed new well or alteration of an existing well;
  - (2) Anticipated yield and production capacity of the well;
  - (3) Well location and designated groundwater basin;
  - (4) Written verification from an applicable Groundwater Sustainability Agency for a medium- or high-priority basin that the proposed new well or alteration of an existing well would not be inconsistent with any sustainable groundwater management program established in a Groundwater Sustainability Plan; and
  - (5) A plot plan indicating all nearby wells within 1,000 feet of the proposed new well or alteration of an existing well.
- (b) An application for new well construction or alteration of existing wells with nearby wells shall include hydrogeology and well extraction data including but not limited to transmissivity, storativity, and estimated height of water column in the proposed well, prepared under the direction or supervision of a California Certified Hydrogeologist or California Professional Geologist that can provide documentation at the request of the administrative authority demonstrating the requisite experience in responsible charge of hydrogeologic assessments, as requested by the administrative authority in order for the administrative authority to determine whether or not the proposed new well or

alteration of the existing well is not likely to cause subsidence and not likely to interfere with an existing well.

**• Sec. 34A-26 – Drought Emergency. Permit procedure for individual domestic and public water supply wells.**

(a) An application for individual domestic and public water supply wells shall include all required items of Sec 34A-4, and the following intended use and location information:

- (1) Intended use of the proposed individual domestic or public water supply well;
- (2) Anticipated yield and production capacity of the well;
- (3) Well location and designated groundwater basin;
- (4) A plot plan indicating all nearby wells within 1,000 feet of the proposed individual domestic or public water supply well; and
- (5) Identify the structure(s) to be served by the new domestic or public water supply well.

(b) Applications for a well to serve a multiple-parcel water system, state small water system, or public water system shall be completed by an authorized representative of the water system, and include legal easement and rights including, but not limited to, access and operation and maintenance of the well and site.

**• Sec. 34A-27 – Drought Emergency. Permit procedure for replacement wells.**

(a) An application for replacement wells shall include all required items of Sec 34A-4, and the following intended use and location information:

- (1) Intended use of the proposed replacement well;
- (2) Anticipated yield and production capacity of the well;
- (3) Yield and production capacity of the well as originally permitted;
- (4) Well location and designated groundwater basin;
- (5) Written verification from an applicable Groundwater Sustainability Agency for a medium- or high-priority basin that the replacement well would not be inconsistent

with any sustainable groundwater management program established in a Groundwater Sustainability Plan; and

(6) A plot plan indicating all nearby wells within 1,000 feet of the proposed replacement well.

(b) Concurrently with the submittal of an application for a replacement well, the applicant shall submit an application for the destruction of the well to be replaced, in accordance with Sec 34A-4. The existing well shall be destroyed within 90 days of the completion of the replacement well.

• **Sec. 34A-28 – Drought Emergency. Permit issuance.**

(a) For new wells or the alteration of existing wells, that do not have nearby wells. If the administrative authority finds the application for a requested permit for new wells, or the alteration of existing wells that do not have nearby wells subject to this urgency ordinance to contain all the required information, and the proposed water well is found to be in compliance with all applicable standards as specified in Chapter 34A and the Governor's Executive Order N-7-22, as may be superseded, the administrative authority shall issue a well permit.

(b) For new wells or the alteration of existing wells, with nearby wells. If the administrative authority finds the application for a requested permit for new wells, or the alteration of existing wells with nearby wells subject to this urgency ordinance to contain all the required information, and the proposed water well is found not likely to cause subsidence and not likely to interfere with existing wells pursuant to the Governor's Executive Order N-7-22 as may be superseded, and found to be in compliance with all applicable standards as specified in Chapter 34A, the administrative authority shall issue a well permit.

(c) For individual domestic and public water supply wells, or replacement wells. If the administrative authority finds the application for a requested permit for individual domestic and public water supply wells, or replacement wells subject to this urgency ordinance to contain all the required information, and the proposed water well is found to be in compliance with all applicable standards as specified in Chapter 34A and the Governor's Executive Order N-7-22, as may be superseded, the administrative authority shall issue a well permit.

(d) The permit approval received from the administrative authority is separate from any other permit or clearance that may be required by another governmental agency or groundwater sustainability agency.

• **Sec. 34A-29 – Drought Emergency. Severability.**

If any provision of this urgency ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this urgency ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this urgency ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this urgency ordinance irrespective of the invalidity of any particular portion thereof.

• **Section 34A-30 Drought Emergency. Effective Date.**

This urgency ordinance, sections 34A-22 through 34A-30, shall take effect and be in full force immediately upon adoption by at least a four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123 and shall remain in effect and operative until the Santa Barbara County local drought emergency proclamation is terminated and the Governor's Executive Order as may be superseded has been rescinded.



PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this the 24<sup>th</sup> day of May, 2022, by the following vote:

AYES: Supervisors Williams, Hart, Hartmann, Nelson, and Lavagnino

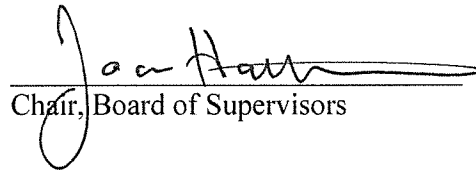
NOES: None

ABSTAIN: None


ABSENT: None

COUNTY OF SANTA BARBARA

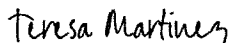
JOAN HARTMANN

  
Chair, Board of Supervisors


ATTEST:  
MONA MIYASATO  
COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By:   
Deputy Clerk

APPROVED AS TO FORM:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

DocuSigned by:  
By:   
Deputy County Counsel

APPROVED AS TO FORM:  
GREG MILLIGAN, ARM  
RISK MANAGER

DocuSigned by:  
By:   
Risk Management