

ORDINANCE NO. 6392

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, ESTABLISHING A TEMPORARY MORATORIUM UNTIL APRIL 4, 2023, ON THE PROCESSING AND APPROVAL OF APPLICATIONS FOR WATER SUPPLY WELL PERMITS (URGENCY ORDINANCE - 4/5 VOTE REQUIRED)

Section I. The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section II. This ordinance is enacted pursuant to California Constitution, article XI, section 7. The purpose of this ordinance is to establish a temporary moratorium until April 4, 2023, on the processing and approval of applications for water supply well permits submitted on or after October 4, 2022, except for applications for emergency wells.

Section III. Notwithstanding anything contained in Chapter 25B of the Sonoma County Code to the contrary, no application for a permit for a water supply well submitted on or after October 4, 2022 shall be processed or approved for the period of the temporary moratorium established by this ordinance, unless the application is for an emergency well in which case such application shall be subject to the version of Chapter 25B in effect at the time of decision on the application.

Section IV. The Board of Supervisors finds that the adoption of this ordinance on an urgency basis is necessary to preserve the public peace, health, and safety of the county. The Board of Supervisors further finds that the facts constituting the basis for the urgency and the need for the temporary moratorium are as follows:

- A. "Public trust resources" are waterways the government is obligated to hold in trust pursuant to the public trust doctrine for the benefit of the public for purposes of commerce, navigation, recreation, fishing, and preservation of wildlife habitat and natural resources.
- B. California is in the midst of a record multi year drought and water levels in many wells and streamflow in many creeks are at historically low levels.
- C. On April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, the Governor of California proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions; and

- D. The ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and
- E. The County of Sonoma is considering amendments to Chapter 25B, its water well permitting ordinance, to establish screening criteria and procedures for the County's consideration and mitigation of impacts to public trust resources when permitting water wells.
- F. Following introduction of the ordinance amendments on October 4, 2022, the Board did not take action to adopt the amendments to Sonoma County Code Chapter 25B, and instead directed the Director of Permit Sonoma to form a Technical Advisory Committee (TAC) to make recommendations on amendments Chapter 25B to bring back at a future date for Board consideration.
- G. Currently, unless a well is part of larger discretionary project application, well permits applications are treated ministerially, without an individualized public trust review.
- H. Temporarily pausing the processing and approval of applications submitted on or after October 4, 2022 until April 4, 2023, will prevent an undue rush on water well permit submittals prior to the convening of the TAC and the effective date of future amendments to Chapter 25B on which the TAC will be advising that will be designed to protect public trust resources, particularly during conditions created by multiple drought years.
- I. For the foregoing reasons, the Board of Supervisors finds that it is necessary to adopt, on a temporary basis, a moratorium on the processing and approval of applications for new water supply wells, as provided herein.

Section V. The Board of Supervisors finds and determines that this ordinance is exempt from the California Environmental Quality Act pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment. The basis for this determination is that this ordinance establishes a temporary moratorium on the processing and approval of permits for new water supply wells. Public trust resources that are interconnected to groundwater are natural resources and an important part of the environment and would be protected and maintained by this ordinance. This moratorium will not result in any significant adverse direct or indirect physical changes to the environment. This ordinance is further exempt from CEQA pursuant to State CEQA Guideline § 15061(b)(3) because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The Director of the Permit and Resource Management Department is directed to file a notice of determination that this ordinance is exempt from CEQA and the State CEQA Guidelines.

Section VI. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors

hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Section VII. This ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage and shall continue in effect through April 4, 2023. This ordinance shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, passed this 4th day of October, 2022, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Aye Rabbitt: Aye Coursey: Aye Hopkins: Aye Gore: No

Ayes: 4 Absent: 0

Noes: 1 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors