

BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA

ORDINANCE NO. 674

AN ORDINANCE ADDING CHAPTER 13.101 MANDATING INSTALLATION OF WATER FLOW METERS AND WATER LEVEL METERS ON ALL NEW WATER WELLS, WELL REPAIRS, WELL RECONSTRUCTIONS, AND WELL MOTOR and /or WELL PUMPS REPLACEMENTS or UPGRADES The Board of Supervisors of the County of Madera hereby ordains as follows:

Section 1. Background, Purpose and Findings.

The County is committed to protecting public health, safety, welfare and the environment. To meet these goals, the County must promote the proper measurement and management of groundwater usage and levels. Under California law, i) Groundwater Management is outlined in the California Water Code, Division 6, Part 2.75, Chapters 1-5, Sections 10750 through 10755.4. ii) The Groundwater Management Act, Assembly Bill 3030, modified by Senate Bill 1938 and Assembly Bill 359. iii) The Sustainable Groundwater Management Act, Assembly Bill 1739, Senate Bill 1168, and Senate Bill 1319, the State of California has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for groundwater management within their jurisdiction.

The purpose of this Ordinance is to mandate Installation of WATER FLOW METERS AND WATER LEVEL METERS ON ALL NEW WATER WELLS, WELL REPAIRS, WELL RECONSTRUCTIONS, AND WELL MOTOR and /or WELL PUMPS REPLACEMENTS or UPGRADES in the unincorporated areas, and to establish other regulatory requirements in connection with these purposes.

The State of California has recently found and declared that:

- (a) The people of the state have a primary interest in the protection, management, and reasonable beneficial use of the water resources of the state, both surface and underground, and that the integrated management of the state's water resources is essential to meeting its water management goals.
- (b) Groundwater accounts for more than one-third of the water used by Californians in an average year and more than one-half of the water used by Californians in a drought year when other sources are unavailable.
- (c) Excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence that damages infrastructure and diminishes the capacity of aquifers to store water for the future.
- (d) When properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use.

- (e) Failure to manage groundwater to prevent long-term overdraft infringes on groundwater rights.
- (f) Groundwater resources are most effectively managed at the local or regional level.
- (g) Groundwater management will not be effective unless local actions to sustainably manage groundwater basins and sub-basins are taken.
- (h) Local and regional agencies need to have the necessary support and authority to manage groundwater sustainably.
- (i) Information on the amount of groundwater extraction, natural and artificial recharge, and groundwater evaluations are critical for effective management of groundwater.

The, the State has, through enactment of the additional legislation referred to hereinabove, authorized and directed that local agencies, including counties, adopt and implement effective monitoring and management plans to protect, preserve and maintain sustainable groundwater levels and water supply for long-term reliability.

The County recognizes that groundwater levels in the County generally have lowered due to increased drafts of water and the effects of drought. In 2001 in connection with adoption of Chapter 13.100 pertaining to groundwater banking, the Board of Supervisors already made findings that the Madera, Chowchilla and Delta-Mendota Basins "were severely over drafted." Since 2001, the situation has significantly worsened. Unabated and unmanaged, the lowering of County groundwater basin water levels will continue which would be detrimental to the health, safety and general welfare of the County.

Therefore, the Board of Supervisors hereby finds that developing, implementing and maintaining an effective monitoring and management of the groundwater in the County are matters of essential local concern.

Further, the Board of Supervisors finds that adopting and implementing an ordinance requiring Installation of WATER FLOW METERS AND WATER LEVEL METERS ON ALL NEW WATER WELLS, WELL REPAIRS, WELL RECONSTRUCTIONS, AND WELL MOTOR and /or WELL PUMPS REPLACEMENTS or UPGRADES in the unincorporated areas is necessary to comply with the County's responsibility under State law and is in the best interest of the County, and its farms, businesses and residents. In addition, the Board of Supervisors finds that the public health, safety, and well-being of County farms, businesses and residents long-term requires Installation of WATER FLOW METERS AND WATER LEVEL METERS ON ALL NEW WATER WELLS, WELL REPAIRS, WELL RECONSTRUCTIONS, AND WELL MOTOR and /or WELL PUMPS REPLACEMENTS or UPGRADES in the unincorporated areas, as set forth in this Ordinance.

Finally, for reasons set forth above, the Board of Supervisors finds that the adoption of this Ordinance will promote the health, safety, and general welfare of the County.

Section 2. Addition of Chapter 13.101. to Title 13 of the Madera County Code.

Chapter 13.101 is hereby added to Title 13 of the Madera County Code, and shall read in full as follows:

CHAPTER 13.101.

Article 1. Title and Purpose.

Section 13.101.010. Title and Purpose.

This Chapter shall be known as the "Installation of Water Flow Meters and Water Level Meters Regulations" The purpose of this Ordinance is to mandate Installation of WATER FLOW METERS AND WATER LEVEL METERS ON ALL NEW WATER WELLS, WELL REPAIRS, WELL RECONSTRUCTIONS, AND WELL MOTOR and /or WELL PUMPS REPLACEMENTS or UPGRADES in the unincorporated areas, and to establish other regulatory requirements in connection with these purposes to monitor and regulate the groundwater usage and levels to promote the health, safety and general welfare.

Article 2. DEFINITIONS.

Section 13.101.020. DEFINITIONS.

A. Definitions. For the purpose of this chapter, the following definitions shall apply:

"Agricultural land development" means the development, new plantings, or other improvement of a property greater than one-quarter (1/4) of an acre for the purposes of farming a crop, orchard, vineyard or other agricultural product.

"Agricultural land re-development" means the re-development or replanting of an existing crop, orchard, vineyard or other agricultural product of greater than one-quarter of an acre.

"Aquifer" means a geologic formation, underground layers of porous rock that are saturated from above or from structures sloping toward it, that stores, transmits and yields significant quantities of water to wells and springs. Aquifer capacity is determined by the porosity of the subsurface material and its area.

"Certified" means certified by a licensed vendor or otherwise reasonably accepted determination that based on calibrations that confirm accuracy of meter readings regarding water flow and water level. Standards to be set and published by the Public Works Director

"Conservation" means the conscious effort to prevent waste and minimize the consumption of groundwater by utilizing reasonable and economically justifiable methods to improve its delivery and use, thus increasing water supplies for optimum long-term benefits. When referring to landscaping or agricultural uses of groundwater this term includes water reuse, processes to reduce the amount of water irretrievably lost to moisture deficient soils, water surface evaporation, or evapotranspiration.

"Contiguous parcel" means parcels which abut, adjoin or otherwise touch each other at more than one point along a common boundary or which would do so except for separation by a strip of land over which some person or entity, other than the owner of the parcels, has some property interest, including fee title or some lesser interest, such as a leasehold or easement. Examples of such strips of land include but are not limited to roads, streets, utility easements, railroad rights-of-way, canals and drainage channels. "Department" means the county department of planning, building, and environmental services.

"Director" means the county director of planning, building, and environmental services or the designee of the director.

"Director of public works" means the county director of public works or the designee of the director of public works.

"Efficient use" means those management measures that result in the most effective use of water so as to prevent its waste or unreasonable use or unreasonable method of use.

"Groundwater" means all water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water.

"Groundwater deficient area" means an area where the amount of groundwater is inadequate to meet particular demands at a particular time, as shown in Map 13-1 at the end of this chapter.

"Harvested water" means the collection and use of rainwater as a means to augment or replace other sources of water.

"Improvement" or "improve," as related to a well or water supply system, means the construction, re-construction, replacement, or addition to, any portion of a water supply and distribution system for the purposes of providing water for a new use or an additional use (unless specifically exempt under this chapter). "Minor improvement" means a modification to an existing water supply that involves simple repair or replacement of pipes, fittings, faucets, hoses, meters, components of irrigation systems, sinks, tubs, toilets, showers, washing machines.

"Overdraft" means the withdrawal of water from an aquifer in excess of the amount of water that recharges the basin over a period of years during which water supply conditions approximate the average, and which, if continued over time, could eventually cause the underground supply to be exhausted, cause subsidence, cause the water table to drop below economically feasible pumping lifts, cause a detrimental change in water quality, or produce other adverse environmental impacts.

"Parcel" means a legal lot of record.

"Public water supply" means a water supply provided by a local agency, publicly owned corporation, approved utility company, mutual water supply system, privately owned water system, and / or community water system.

"Recharge" means replenishment of groundwater by flows to groundwater storage from precipitation, irrigation, infiltration from streams, a spreading basin or other sources of water.

"Recycled water" means the reclamation and reuse of wastewater or graywater for beneficial use.

"Site" means the location of a system to extract and distribute groundwater, such as a well and connecting plumbing which supplies water to a residence or other structure or use.

"Water flow meter" means an electronic or mechanical device designed to measure water flow, volume and quantities in gallons or any portion thereof by date and time [whether per minute, per hour, per day or other typical time period] regarding the water well to which it is connected and from which the particular water well draws groundwater.

"Water supply system" means any system including the water source the purpose of which is to extract and distribute groundwater.

"Water table" means the surface or level where groundwater is encountered in an unconfined aquifer.

"Water Level Meter" means an electronic or mechanical device attached to or connected electronically and or mechanically designed to measure water table levels vertically and horizontally regarding the water well to which it is connected and from which the particular water well draws groundwater.

"Water well motor" means the electrical or mechanical device that powers a "water well pump" whether or not as a single or separate unit, submerged or not.

"Water well pump" means the electrical or mechanical device that propels, draws or pumps water from the groundwater source into/up the water well by use of a "water well motor" or other device whether or not as a single or separate unit, submerged or not.

"Water well sounding" means an electrical or mechanical device, manual and / or licensed service utilizing an electrical or mechanical device to gauge / monitor or "read" and record groundwater static vertical level of the groundwater one hour or more after well pumping ceases at the water well site.

13.110.030 WATER FLOW METER AND WATER LEVEL METER PERMIT REQUIRED.

A. No applications filed for development of a new water supply system or improvement of an existing water supply system within Madera County that may use groundwater as a water source shall be approved by any employee, department or body of Madera County unless it is specifically exempted by this Chapter or unless a water flow meter and water level meter permit is obtained as required by this Chapter. All such applications shall be submitted to the Public Works Director for review and determination regarding the water flow meter and the water level meter permit.

B. Prior to the issuance of any building permit, or any other permit or administrative approval facilitating the development or use of any parcel that may utilize a groundwater supply, a water flow meter and water level meter permit must be obtained through the Public Works Director unless specifically exempted by this Chapter.

C. Prior to the final approval of a subdivision, a water flow meter and water level meter permit must be obtained if required by the Public Works Director in accordance with the provisions of this Chapter and an existing, new or improved water system will provide groundwater to the subdivision.

D. Agricultural land development or re-development which will utilize groundwater is subject to review and approval by the Public Works Director for a water flow meter and water level meter permit.

E. No application filed for approval of a Lot Line Adjustment shall be approved by any employee, department or body of Madera County when the resultant parcel configuration potentially increases the intensity of groundwater use of any parcel unless specifically exempted by this Chapter. That determination shall be made by the Public Works Director.

13.101.040 APPLICATION FOR WATER FLOW METER AND WATER LEVEL METER PERMIT TO THE PUBLIC WORKS DIRECTOR.

Each applicant determined not to be exempt shall be required to obtain a water flow meter and water level meter and shall submit a water flow meter and water level meter permit application to the Director, using a form provided by the director. That application shall:

A. Identify any present and future uses of any existing water system, including whether and to what extent groundwater is or will be used as a water source on the affected property;

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B. Identify any water sources other than groundwater intended to be used;

C. If the proposed application is for the development of a new water system or improvement to an existing water system, state the number of parcels and service connections the new water system or improvement are intended to serve, identify the location of the structures and improvements to be served by that new or improved water system, and identify existing and future uses and users to be served by that new or improved water system;

D. Whether the intent is to transfer some or all of the groundwater extracted pursuant to the permit to a public agency for use by a public agency following issuance of the water flow meter and water level meter permit;

13.101.050 PROCESSING OF WATER FLOW METER AND WATER LEVEL METER PERMIT APPLICATIONS THROUGH THE PUBLIC WORKS DIRECTOR.

The following procedures and standards shall govern the review and disposition of permit applications for a water flow meter and water level meter:

A. The Public Works Director shall review an applicant's water flow meter and water level meter declaration submitted under this Chapter for compliance with the requirements of this Chapter and any other applicable provisions of law in determining the type of water flow meter and the type of water level meter and or water well reading.

B. If the Public Works Director determines after review that the applicant's water flow meter and water level meter declaration satisfies the groundwater permitting requirements of this Chapter, and any other applicable provisions of law, the Public Works Director shall issue a water flow meter and water level meter permit and impose any reasonable condition consistent with the provisions of this Chapter. If the Public Works Director determines the application and water flow meter and water level meter declaration do not meet the permitting requirements of this Chapter, or any other applicable provisions of law, the director shall issue a decision denying the water flow meter and water level meter permit and setting forth the reasons therefore.

A. 13.101.080 APPLICATION FOR DETERMINATION OF EXEMPTION TO THE PUBLIC WORKS DIRECTOR.

B. All applications for exemption from a water flow meter and a water level meter permit shall be submitted to the Public Works Director for determination based on the provisions of this Chapter.

13.15.060 Exempt Applications.

A. In the case of uses permitted without a use permit under any provision of the County Code, the applications for a water flow meter and water level meter permit must be obtained unless the application or development:

1. Is for a project that will only rely on hard rock wells or a flowing artesian well or is located on a parcel included within foothills and mountainous areas depicted on the Madera County Valley Water Basin Map and is specifically exempted;
2. Is where the development or improvement, regardless of number of parcels served is able to connect to a public water supply.

B. In the case of only minor improvements to a water system.

C. The Public Works Director shall make all such determinations required by this Chapter.

13.101.070 REPORTING REQUIREMENTS.

A. The permittee shall install a water flow meter and water level meter for each well serving the parcel to measure groundwater usage and levels on the parcel. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the Director of Public Works.

B. On or near the first day of each month the permittee shall read, and maintain a log for, the water flow meter which shall be located as close as practical to the water well between the water well and the first pressure point, pressurized tank, bladder tank, atmospheric tank or storage tank and provide this data to the Director of Public Works during the first week of April and October of each year, during which months water level meter reading or water well sounding data shall be logged and reported quarterly [the first week of January, April, July and October of each year] to the Director of Public Works. Such meters shall be certified annually with the certification made available to the Public Works Director upon request. The permittee shall also grant to the Director of Public Works the right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.

13.101.080 Appeals.

A. Appeals. Any person may appeal to the Board of Supervisors a final decision of the Public Works Director made, following a request in writing submitted within 10 days from the date of the decision of the Public Works Director for hearing in accordance with the procedures set forth in this Chapter. Such written appeal shall contain all factual information supported by a registered civil engineer's report when technical and engineering questions are involved. Appeals of decisions that become final because no timely request for a hearing was received are not permitted.

B. Hearings on Appeal. At the hearing, all relevant and material evidence regarding the matter shall be considered.

C. Decisions. The Board of Supervisors may affirm, reverse, or modify the determination of the Public Works Director, but such decision shall be in writing, and shall specify the reasons for its decision and contain specific directives to the administrative staff for the carrying out of such decision.

13.101.090 Enforcement—Violation.

A. Criminal Penalties. Any person, firm or corporation, whether acting as principal, agent, employer or otherwise, who violates any provision of this Chapter, or the terms and/or conditions of any permit issued pursuant to this Chapter, shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand (\$1,000) dollars per violation, or imprisonment not exceeding six (6) months, or both such fine and imprisonment. Any person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted.

B. Civil Actions—Injunctive Relief. Madera County may elect additionally, or alternatively, to proceed with a civil action, including, but not limited to, seeking injunctive relief, rather than, or in addition to criminal actions as described in subsection (A) of this section. Any person, firm or corporation, whether acting as principal, agent, employer or otherwise, who willfully violates any provision of this Chapter, or the terms and/or conditions of any permit issued pursuant to this Chapter, shall be liable for a civil penalty not to exceed one thousand \$1,000) dollars for each day or portion thereof, that the violation continues to exist. Any person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting the violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken (and timing of such corrective action), or lack thereof, by the violator.

Section 4. Severability.

If any section, sub-section, sentence, clause, or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

Section 5 Effective Date.

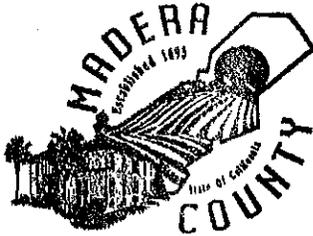
This Ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the Davis Enterprise together with the names of members of the Board of Supervisors voting for and against the same.

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The foregoing Ordinance was adopted this 2nd day of DECEMBER,

2014, by the following vote:

Supervisor Nevarez voted: yes
 Supervisor Rogers voted: yes
 Supervisor Farinelli voted: yes
 Supervisor Rodriguez voted: yes
 Supervisor Wheeler voted: yes



Jim Wheeler
 Chairman, Board of Supervisors

ATTEST:

Vanna Boyd
 Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

By Robert D. Gabriele
 Assistant