

## TITLE 9

### DIVISION 22: GROUNDWATER ORDINANCE

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#### CHAPTER 1: GENERAL PROVISIONS & DEFINITIONS

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#### § 92201.00 SHORT TITLE

Sections §92200.00 to §92209.00, inclusive, of this Ordinance shall be known and may be cited as the Imperial County Groundwater Management Ordinance.

#### § 92201.01 PURPOSE OF THE ORDINANCE

This Ordinance is adopted for the purpose of preserving, protecting and managing the groundwater within the County. The Board of Supervisors hereby finds and declares that the preservation, protection and management of the groundwater within the County for the protection of domestic, commercial, agricultural, industrial, municipal, wildlife habitat, and other uses is in the public interest, that protection is necessary to ensure availability of groundwater reasonably required to meet the present and future beneficial needs of the County, and that the adoption of a system of regulation of groundwater is for the common benefit of all County water users.

#### § 92201.02 EXCLUSIONS

Excluded Uses

The following uses are excluded from the application of this Ordinance:

- A. Agricultural tiling or tile drain systems under the surface of irrigated lands.
- B. Geothermal systems regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources.
- C. Geothermal systems not regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources because they are on federal lands.
- D. Geothermal projects governed by the County Geothermal Project ordinance.
- E. Uses for an approved land use project of geothermal waters or solutions having an average temperature greater than one hundred and ten degrees Fahrenheit (110°F) or total dissolved solids greater than five thousand (5,000) parts per one million (1,000,000).

**§ 92201.03 PRIOR APPROVED USES**

The place and quantity of any groundwater use in the County which has been approved as part of a County Conditional Use Permit before the effective date of this ordinance, shall be deemed, during compliance with and for the term of such Conditional Use Permit, to be exempt from the permitting and reporting provisions of this Ordinance, and the payment of fees incidental to registration, permitting, and reporting.

**§ 92201.04 DEFINITIONS**

Unless otherwise indicated by their context, the terms defined in this section govern the interpretation of this Ordinance.

- A. **Abandon:** "Abandon" means the cessation or suspension of use of a facility for more than twelve (12) consecutive months, or such longer period of not more than twenty-four (24) consecutive months as the Director may approve in writing. The user may apply for a longer period of up to twelve (12) months during the first twelve (12) months of cessation or suspension of use, and the application must be for good cause.
- B. **Artificial Recharge:** "Artificial recharge" means an increase in groundwater resulting from the application or addition of water to surface land, or through any other artificial process. Artificial recharge may be unintentional, i.e. not performed with the purpose of increasing groundwater. Artificial recharge may be intentional, i.e. performed with the purpose of increasing groundwater. If a substantial purpose of an artificial recharge activity is the increase of groundwater, then it is intentional artificial recharge.
- C. **Artificial Recharge Facility:** "Artificial recharge facility" means any device or method used for the intentional artificial recharge of groundwater in the County.
- D. **Available Supply:** "Available supply" means the quantity of groundwater which can be withdrawn annually from a groundwater basin without resulting in or aggravating conditions of overdraft, subsidence, groundwater quality degradation, or other environmental damage. Available supply of a groundwater basin includes the average annual natural water supply, imported water or other water which has been spread to the basin or otherwise added to the basin, and return flows to the basin attributable to these sources reaching the groundwater basin in the course of use.
- E. **Commission:** "Planning Commission" means the Commission selected pursuant to Section 90103 et. seq. (Planning Commissioners Appointment; Election; Terms of Office; Divisions; Chairman), of this Ordinance.
- F. **Close:** "Close" means the ceasing of all use of a facility, and dismantling, capping, filling, or otherwise permanently modifying the facility in accordance with applicable building, mechanical or safety regulations, to prevent further use of the facility.

- G. Conditioning: "Conditioning" or "to condition" means the treatment of water by chemical, mechanical, or other means, to improve or alter its quality or usefulness.
- H. Development Project: "Development project" means a project undertaken to develop property, including the development or expansion of agricultural uses, or involving the discretionary issuance to a person of a lease, building or other permit, license, certificate, or other entitlement for use granted by one or more public agencies, including, but not limited to any of the following:
1. A tentative map or tentative parcel map required by local Ordinance or the Subdivision Map Act (commencing with Section 66410 of the Government Code of the State of California).
  2. A conditional use permit.
  3. A zone change.
  4. A variance.
- I. Director: "Director" means the Planning & Development Services Director of the County.
- J. Export: "Export" means groundwater extracted for use outside the boundaries of the groundwater basin from which the groundwater is derived, or outside the County, or extracted groundwater used within the County in lieu of, and resulting in a reduction of, water previously within the County.
- K. Exportation Facility "Exportation facility" means any device or method used for the export of groundwater from the County or a groundwater basin within the County.
- L. Extraction "Extraction" means the act of obtaining groundwater by pumping or other controlled means.
- M. Extraction Facility "Extraction facility" means any device or method for the extraction of groundwater within the County.
- N. Groundwater: "Groundwater" means water which occurs in or moves, seeps, filters, or percolates through, or is located in the ground under the surface of the land, regardless of the source. "Groundwater" does not include any water which, on the effective date of this Ordinance, is subject to appropriation under Part 2 (commencing with Section 1200) of Division 2 of the Water Code of the State of California. The character of water as "groundwater" is not modified by extraction.
- O. Groundwater Basin: "Groundwater basin" means the groundwater basin or basins, or portions thereof, within the boundaries of the County and any sub-basins located therein.
- P. Notice to Public: "Notice to the public" means giving notice at least ten (10) days before the date of the hearing, of the date, time, and place of hearing, location of the properties affected, and the nature of the matter under consideration, by:
1. Publishing such notice once in a newspaper of largest circulation in the County.
  2. By posting such notice at the Imperial County Administration Center.
  3. By mailing a copy of such notice postage prepaid to persons who have requested notice. Such requests shall be made in writing, delivered to the Director, and shall expire at the end of the calendar year in which they are received.
- Q. Off-Basin Use: "Off-basin use" means the extraction of groundwater for use within the County which does not overlie the groundwater basin from which the groundwater is extracted.
- R. Operator: "Operator" means the person who operates an extraction facility, exportation facility, or artificial recharge facility. "Operator" also means the person to whom the extraction facility,

exportation facility, or artificial recharge facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which an extraction facility, exportation facility or artificial recharge facility is located.

- S. Overdraft: "Overdraft" means the condition of a groundwater basin where the average annual amount of water extracted exceeds the average annual supply of water to the basin plus any temporary surplus.
- T. Overlying Use: "Overlying use" means the extraction of groundwater for use on the extractor's land within the County which overlies the groundwater basin from which the groundwater is extracted.
- U. Person: "Person" includes any state or local government agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.
- V. Replenishment: "Replenishment" means spreading water over a permeable area for the purpose of allowing it to percolate to the groundwater basin, or otherwise adding water to the groundwater basin which without such effort would not augment the groundwater supply.
- W. Supplemental Water: "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of a groundwater basin and flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the groundwater basin.
- X. Temporary Surplus: "Temporary surplus" means the amount of water that can be extracted from a groundwater basin without adversely affecting the available supply or groundwater quality of the groundwater basin, to provide storage space for natural recharge that would be lost during wet years if it could not be stored in the groundwater basin.
- Y. Use: "Use" means any actual consumption or other beneficial use of a specific quantity of groundwater at a specific location.
- Z. User: "User" means any person using groundwater.
- AA. Well Interference: "Well interference" means a substantial water level decline in a short time period in a localized area caused by extraction.

**§ 92201.05 PLANNING COMMISSION**

The Planning Commission shall act at the direction of the Board of Supervisors and as set forth in this Ordinance.

Planning Commissioners Appointment, Election; Terms of Office; Division, Chairman

- A. The Planning Commission shall consist of ten (10) members selected in accordance with this Ordinance. Each member shall be a qualified elector of and a resident in the County of Imperial.
- B. Two (2) members of the Planning Commission shall be appointed by each member of the Board of Supervisors. A Supervisor shall make an appointment in writing by filing a notice with the Clerk of the Board of Supervisors, who shall place it on the next public agenda as a public information item.
- C. The term of office of each Planning Commission member shall run concurrently with the term of office of the Supervisor who appointed the Planning Commission member.
- D. Should the appointing Supervisor leave office for any reason, the appointment of each Planning Commission member appointed by said Supervisor shall expire when the Supervisor leaves office, and the successor Supervisor shall appoint a person to serve the balance of the unexpired portion of the term. An appointee whose term has expired shall serve until his or her successor is appointed.
- E. The Supervisor making an appointment shall have the power to remove said appointee from the

Planning Commission. If the Supervisor chooses to remove an appointee, the Supervisor shall do so in writing by filing a notice with the Clerk of the Board of Supervisors, who shall place it on the next public agenda as a public information item.

- F. Notwithstanding paragraphs (c), (d) and (e) of this Subsection, the Board of Supervisors, by a four-fifth's (4/5) vote, may remove any member or members of the Planning Commission.
- G. Vacancy in the office of a member of the Planning Commission shall occur upon the expiration of their term, death, resignation, removal from or forfeiture of office. A forfeiture shall occur when the member of the Planning Commission ceases to be a qualified elector or resident of the County. Should a vacancy occur on the Planning Commission, the vacancy shall be filled by the appointing Supervisor or the successor to such Supervisor for the unexpired portion of the term.
- H. At the first meeting of each year, the Planning Commission shall elect from the Planning Commission a chairman and a vice chairman, and shall provide for the time and place of holding its meetings.
- I. The chairman of the Planning Commission shall preside at all meetings of the Planning Commission. In the case of the absence or inability to act of the chairman or vice chairman, the members present shall by resolution entered in the records of the Planning Commission, select one of their members to act as temporary chairman.
- J. A majority of the members of the Planning Commission shall constitute a quorum for the transaction of business. A majority of all members appointed to the Planning Commission must concur on any decision.
- K. Each Planning Commissioner shall receive compensation in an amount to be determined by the Board of Supervisors and shall receive reasonable traveling expenses to and from the place of meeting of the Planning Commission.

**§ 92201.06 MEETINGS OF THE PLANNING COMMISSION**

The Planning Commission shall meet on the second and fourth Wednesday of each month and may hold such additional and special meetings as called by the Chairman by giving notice to the public.

**§ 92201.07 REGULATIONS; ADOPTION; PUBLICATIONS; CIVIL LIABILITY**

Any regulation recommended by the Planning Commission pursuant to this Ordinance and adopted by the Board of Supervisors may become effective upon adoption. Within 10 days after its adoption, the regulation shall be published pursuant to Section 6061 of the Government Code of the State of California. From and after the effective date of the regulation, and after publication, any person who does not comply with the provisions of a regulation may be liable civilly for a sum not to exceed one thousand dollars (\$1,000) for each day a regulation is not complied with, in addition to any other penalties established pursuant to this Ordinance. If deemed appropriate, the Planning Commission may recommend, and the Board of Supervisors may adopt regulations defining additional specific objective standards for determining the available supply and conditions of overdraft.

**§ 92201.08 USE OF FUNDS**

All monies collected pursuant to this Ordinance shall be placed in a designated fund and shall be available, without regard to the fiscal year, for expenditure by the County in carrying out groundwater management functions pursuant to this Ordinance, including using funds to offset the administrative costs incurred by County departments.

**§ 92201.09 MINIMUM EXTRACTION OR EXPORTATION**

The Planning Commission may after notice to the public and hearing, recommend to the Board of Supervisors the establishment of standards for amounts of groundwater which may be annually extracted or exported, without complying with those portions of this Ordinance relating to extraction permits, exportation permits,

extraction statements or exportation statements. Upon recommendation, the Board of Supervisors shall, upon notice to the public and hearing, establish such standards as the Board determines appropriate. Such standards may be uniform throughout the County or varied for individual groundwater basins or types of groundwater users. Any operator annually extracting or exporting groundwater in amounts greater than the amounts specified in such standards, shall comply with the provisions of this Ordinance.

**§ 92201.10 ENFORCEMENT**

The Planning Commission may hear and decide any allegations that a person has violated this Ordinance, and may make any orders in response thereto, and impose any penalties, as may be permitted by this Ordinance.

**§ 92201.11 PROCEDURES OF PLANNING COMMISSION**

The Planning Commission shall act in accordance with the "Rules for Transaction of Business for the Imperial County Groundwater Commission", except as may be otherwise provided in this Ordinance. The Planning Commission shall, after notice to the public and hearing, adopt such rules, fees, and procedures to implement this Ordinance.

**§ 92201.12 PERMIT AND DEVELOPMENT PROJECT APPLICATION PROCEDURES**

A. Filing of Applications. Applications for permits for extraction or exportation of groundwater, or artificial recharge, or for appeal of a denial of approval of a development project shall be made on Planning Commission approved forms and submitted to the Director. No application shall be accepted unless it complies with the requirements of this section.

B. Notice of Hearing on Application.

The Director shall fix the time and place of the hearing on the application. Not less than ten (10) days before the date of such hearing, notice of the date, time, and place of hearing, location of the properties affected, and the nature of the request shall be given by doing each of the following:

1. By giving notice to the public.
2. By mailing a notice postage prepaid to the applicant, to each member of the Planning Commission, and to the owners of all the property within 1000 feet of the exterior boundaries of the property described in the application using for this purpose the latest known name and address of such owner as shown upon the latest equalized tax assessment roll of the County. Provided that in the A-1, A-2, and A-3 Zoned areas of the County, notice shall be sent to all owners of all property within one-half (½) mile of the exterior boundaries of the property described in the application.

C. Hearing on Application.

At least one public hearing shall be held on an application before a quorum of the Planning Commission at the time and place for which public notice has been given as required by this Ordinance. All testimony offered at a public hearing, together with the names and addresses of all persons testifying shall be recorded. Any such hearing may be continued; provided that, prior to the adjournment or recess thereof, the chairman at such hearing shall announce the time and place to which such hearing will be continued.

D. Findings and Order on Application.

At the conclusion of a public hearing, the Planning Commission shall render its decision on the matter so heard. The Planning Commission shall approve an application if the Planning Commission finds the applicant meets the requirements of this Ordinance and the Regulations adopted pursuant hereto. The Planning Commission shall announce and record its actions by formal resolution, and such

resolution shall recite the findings of the Planning Commission upon which it bases its decision.

**§ 92201.13 WELL INTERFERENCE DISPUTE PROCEDURES**

A. Petition on Well Interference.

Any water User aggrieved by well interference or an impairment or infringement of the groundwater use, by the extractions or intentional artificial recharge of any other operator within the County, may file a petition with the Planning Commission for enforcement of this Ordinance or any Regulation of the Planning Commission. The Director may file a petition for enforcement with the Planning Commission upon determining that an extraction or intentional artificial recharge is or may infringe upon other water users and that the Planning Commission can resolve the matter.

B. Notice of Hearing on Well Interference Dispute.

The Director shall fix the time and place of the public hearing on the petition. Not less than ten (10) days before the date of such hearing, notice of the date, time, and place of hearing, location of the properties affected, and the nature of the request shall be given by the Director by:

1. Mailing by certified mail, return receipt requested, postage pre-paid, a copy of the notice to the petitioner, unless the Director is the petitioner.
2. Mailing by certified mail, return receipt requested, postage pre-paid, a copy of the notice to the owner of each property on which the petitioner alleges offending extraction facilities are located, at the address as shown on the latest equalized tax assessment roll of the County, and to the operators of each such extraction facility at the address shown on the registration of each such extraction facility.
3. Giving notice to the public.

C. Hearing on Well Interference Dispute.

At least one public hearing shall be held on a petition before a quorum of the Planning Commission at the time and place for which public notice has been given as required by this Ordinance. The petitioner shall present evidence at such hearing in support of the petition. If the petitioner fails to present evidence in support of the petition, the Planning Commission may deny the petition without further action. All testimony offered at a public hearing, together with the names and addresses of all persons testifying shall be recorded. Any such hearing may be continued; provided that, prior to the adjournment or recess thereof, the chairman at such hearing shall announce the time and place to which such hearing will be continued.

D. Findings and Order on Well Interference Dispute.

At the conclusion of the public hearing, the Planning Commission shall render its decision on the matter so heard. The Planning Commission shall announce and record its actions and any orders the Planning Commission determines necessary to provide the petitioning water user with an adequate remedy. Any such order issued shall be in writing and shall recite the findings of the Planning Commission upon which the Planning Commission bases its decision.

D. Non-Availability of Appeal or Orders on Well Interference Disputes.

The Planning Commission's decision shall be final and shall not be subject to appeal except as otherwise provided in Section 92209.09.

**§ 92201.14 ENFORCEMENT HEARING**

A. Filing of Enforcement Complaint.

The Director may file a complaint with the Planning Commission against an alleged violator upon

determining that there is reason to believe that this Ordinance or a Regulation of the Planning Commission has been violated.

B. Notice of Hearing on Enforcement Complaint.

Upon the filing of a complaint with the Planning Commission, or upon an independent determination by the Planning Commission that this Ordinance or a Regulation of the Planning Commission may have been violated, the Planning Commission shall provide notice of such allegations in writing to the alleged violator, specifying the section(s) of this Ordinance or the Regulations of the Planning Commission alleged to have been violated, the approximate time of such violation, the approximate location of such violation, and the date, time and place of the Planning Commission hearing on such violation. The Director shall set the date and time of the hearing on the violation, which hearing shall be not less than twenty (20) days after the service of the notice upon the alleged violator.

C. Service of Notice of Hearing.

The notice of hearing shall be personally served on the alleged violator in the manner prescribed for the service of criminal complaints in the Imperial County Superior Court. If the Director is unable to complete service in this manner, he may serve the notice by mailing the notice to the alleged violator, by certified mail, return receipt requested. If the alleged violator refuses certified mailing, the Director may request the issuance of a warrant for the alleged violator's arrest from the Imperial County Superior Court.

D. Hearing on Enforcement Complaint.

At the date and time specified in the notice of hearing, the Planning Commission shall receive evidence on the complaint.

E. Decision and Order on Enforcement Complaint.

After receiving evidence, the Planning Commission shall determine whether the alleged violator has violated this Ordinance or a Regulation of the Planning Commission, and shall make such orders, and assess such penalties as may be permitted by this Ordinance or a Regulation of the Planning Commission.

**§ 92201.15 FEES FOR APPLICATIONS AND PETITIONS**

The Planning Commission, after notice to the public and hearing, may recommend to the Board of Supervisors a schedule of application and petition processing fees to be paid by applicants and petitioners upon filing an application for a permit or approval of a development project or a petition for a hearing on a well interference dispute. The Board of Supervisors shall, upon notice to the public and hearing, establish such processing and appeal fees as deemed appropriate.

**§ 92201.16 DIRECTOR**

The Planning & Development Services Director of the County shall act as the Director and shall perform all duties assigned by the Planning Commission.

**§ 92201.17 DIRECTOR TO RECEIVE APPLICATIONS AND PETITIONS**

The Director shall receive all applications and petitions submitted pursuant to this Ordinance. No petition or application shall be accepted by the Director which does not meet the requirements of this Ordinance and the Regulations of the Planning Commission. The Director shall submit to the Planning Commission all accepted petitions and applications.

**§ 92201.18 DIRECTOR'S PREPARATION OF STUDIES, INVESTIGATIONS, AND REPORTS**

The Director shall make such studies, investigations and reports as may be requested by the Planning Commission. In addition, the Director shall investigate any alleged or suspected violations of this Ordinance



or the Regulations of the Planning Commission.

**§ 92201.19 DIRECTOR'S ENFORCEMENT AUTHORITY**

If the Director has reason to believe that this Ordinance or a Regulation of the Planning Commission has been violated, the Director may institute one or more of the following procedures, in addition to any other enforcement procedures:

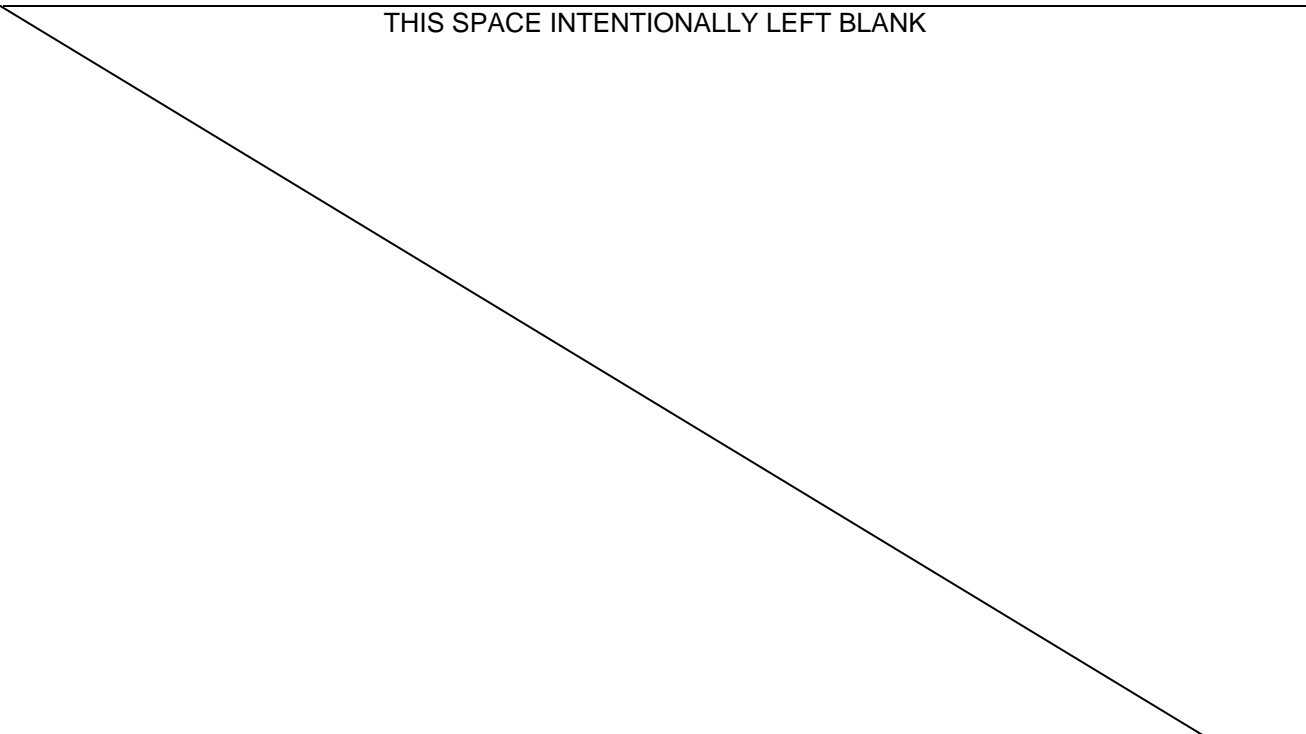
- A. Issue a stop order.
- B. Issue a citation.
- C. Bring charges before the Planning Commission.

**§ 92201.20 ANNUAL REPORT**

The Director shall if requested by the Planning Commission prepare annually a report on groundwater supplies and conditions in the County, including groundwater management objectives and a plan of implementation of those objectives.

**§ 92201.21 INTERFERENCE WITH MEASURING DEVICE; FALSE OR FRAUDULENT STATEMENTS**

No person shall injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with, or procure, or cause, or direct any person to injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with, any water flow measuring device affixed to any facility as required by this Ordinance so as to cause the water flow measuring device improperly or inaccurately to measure and record water. No person shall, with intent to evade any provision or requirement of this Ordinance, file any false or fraudulent statement.



**TITLE 9**

**DIVISION 22: GROUNDWATER ORDINANCE**

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**CHAPTER 2: GROUNDWATER MANAGEMENT**

§ 92202.00	GROUNDWATER MANAGEMENT ACTIVITIES
§ 92202.01	IMPERIAL IRRIGATION DISTRICT
§ 92202.02	REGULATION OF EXTRACTION FACILITIES
§ 92202.03	EXTRACTION FACILITY PERMIT
§ 92202.04	EXTRACTION FACILITY WATER FLOW MEASUREMENTS
§ 92202.05	EXTRACTION STATEMENTS
§ 92202.06	NOTICE OF CLOSURE OF EXTRACTION FACILITY
§ 92202.07	WELL INTERFERENCE

**§ 92202.00 GROUNDWATER MANAGEMENT ACTIVITIES**

If the Planning Commission determines that groundwater management activities may be necessary to improve and preserve the quality or quantity of groundwater resources within the County or prevent other environmental damage, the Planning Commission shall give notice to the public of and hold a hearing to receive evidence on the need for such activities and on the form and scope of the activities required. Upon conclusion of the hearing, the Planning Commission may recommend to the Board of Supervisors, any of the following:

- A. Acquisition, purchase, sale, exchange, conditioning, importation, recapture, conservation, reclamation or storage of water or water rights.
- B. Requirement of conservation practices and measures.
- C. Regulation of groundwater replenishment programs and recapture of supplemental groundwater resulting from such programs.
- D. Determination of the amount of groundwater basin storage space available and allocation of groundwater basin storage space.
- E. Limitation or suspension of extractions from extraction facilities, the construction of new extraction facilities, the expansion of existing facilities, or the reactivation of abandoned or closed extraction facilities.

**§ 92202.01 IMPERIAL IRRIGATION DISTRICT**

The Imperial Irrigation District shall not be required to comply with the permit requirements of this Ordinance and shall be entitled to extract groundwater, under the following specific conditions:

- A. Imperial Unit #1

The Imperial Irrigation District shall not be required to comply with the permit requirements of this Ordinance for any of its authorized activities as a District within the Imperial Irrigation District boundary known as the Imperial Unit # 1 in effect as of July 1, 1988. This boundary shall also include any area within (1) one mile east of the East Highline Canal as said canal exists as of July 1, 1996, and (1) one mile west of the West Side Main Canal as said canal exists as of July 1, 1996.

- B. Water Seeping From The All American Canal

The Imperial Irrigation District shall be allowed to extract the water seeping from the All American Canal. The Imperial Irrigation District shall be allowed to extract such water only to the extent that the Groundwater Model shows that such water is still present in the groundwater basin for extraction. As referred to in this Ordinance, the Groundwater Model is that certain document accepted by the Board

of Supervisors on February 2, 1996, entitled "The County of Imperial and Imperial Irrigation District County-wide Groundwater Model" and any modifications thereto as may be accepted by the Board of Supervisors.

C. Recharge and Recovery

The Imperial Irrigation District shall be allowed to develop, implement and operate artificial recharge facilities and extraction facilities for recovery of artificially recharged groundwater, within any of its existing service boundaries, or within the East Mesa as such area is shown on the Groundwater Model/Study, excluding the Ocotillo/Yuha Basin (Coyote sub-area) and the Borrego Basin (Borrego sub-area) as shown on the Groundwater Model. Such artificial recharge facilities and extraction facilities may not be operated in any basin whose water quality would be affected or deteriorated by such operations. The Imperial Irrigation District shall be allowed to operate such artificial recharge facilities and extraction facilities upon establishing that the operation of such facilities complies with the Groundwater Model, shows that operation of such facilities will not adversely affect water quality in the basin or will not be inconsistent with such other groundwater management practices as may be approved by the Planning Commission after presentation by the Imperial Irrigation District of technical data or information to the Planning Commission in support of such practices.

D. All American Canal

The Imperial Irrigation District shall be allowed to extract groundwater from the East Mesa, within one (1) mile of the All American Canal, over and above the amounts set forth in paragraphs (b) or above under the following conditions:

1. In the event that (a) a third party, without being requested by and without the concurrence of the Imperial Irrigation District, restricts or reduces the amount the allocation of Colorado River water available to IID, and (b) the Imperial Irrigation District is required to use groundwater as "makeup" water to meet its delivery requirements within the County, then the Imperial Irrigation District shall be allowed to extract groundwater at a rate that will not place the basin(s) in overdraft, adversely affect other groundwater users, or cause other environmental damage. Under extreme conditions of drought or in the event of a natural disaster that causes an interruption of Colorado River delivery, the Imperial Irrigation District may, under extreme conditions of drought, if allowed by the Planning Commission, extract more groundwater than the available supply, even if such extraction results in an overdraft, if the Groundwater Model shows that the basin would be recharged the following year.
2. In the event that the demand by Imperial Irrigation District for use of water within the County exceeds the Imperial Irrigation District's present full allocation of Colorado River water, plus water otherwise still available to the Imperial Irrigation District from the Colorado River, the Imperial Irrigation District may be allowed by the Planning Commission to extract groundwater to meet such demand, provided that the basin is not in or does not become in overdraft and that other environmental damage does not result.

E. Limitations

In no event shall the Imperial Irrigation District be allowed to extract groundwater under subsection 92202.01(D) to replace water sold, transferred or lost from the Imperial Irrigation District's allocations of Colorado River water by its own actions or with its consent or acquiescence. In no case shall the Imperial Irrigation District be allowed to extract groundwater under this subsection 92202.01(D) if such extraction places the affected basin(s) into an overdraft other than as provided for in paragraph (d)(1) above. In no event shall the Imperial Irrigation District be allowed to extract groundwater under this provision for use outside of the County either by its own transfer or by agreement by the Imperial Irrigation District with another person, district, City, County, State or Company.

**§ 92202.02 REGULATION OF EXTRACTION FACILITIES**

Registration of Extraction Facilities:

Extraction facilities within the County shall be registered with the Director.

A. Time for Registration of Existing Extraction Facilities

Extraction facilities existing on the effective date of this Ordinance shall be registered within one hundred and twenty (120) days of such effective date. Registration shall not be a substitute for compliance with other applicable statutes, ordinances, and regulations, including but not limited to building codes and zoning ordinances or the State of California Well Construction Standards.

B. Time for Registration of New, Expanded or Reactivated Extraction Facilities

Any new extraction facility which is constructed, or existing extraction facility which is expanded to increased capacity, or reactivated after abandonment or closure, shall be registered prior to such construction, expansion, or reactivation.

C. Form of Registration of Extraction Facility

Registration of extraction facilities shall be accomplished by filing a written registration with the Director in a form prescribed by the Planning Commission.

D. Revocation of Registration of Extraction Facility

In the event that an operator fails to comply with extraction statement filing requirements, or water flow measuring requirements, as required by this Ordinance, the Director shall provide notice of such failure and the intent to revoke the registration, in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located, at the address as shown on the latest equalized tax assessment rolls of the County. The operator or owner shall have fifteen (15) days after the mailing of such notice to comply with such requirements. If the operator or owner thereafter fails to comply, the Director may revoke the operator's registration. Notice of such revocation and of the right to appeal pursuant to Section 92202.02(D) (Revocation by Director) shall be sent by the Director in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located at the address as shown on the latest equalized tax assessment rolls of the County.

**§ 92202.03 EXTRACTION FACILITY PERMIT**

Unless otherwise exempt, every extraction facility operator shall obtain a permit for each such extraction facility in accordance with this Subsection.

A. Time for Permitting of Existing Extraction Facilities

Extraction facilities otherwise legally existing and operating on the effective date of this Ordinance, shall be exempt from the permitting requirements of this Subsection, provided that the extraction facility has been registered pursuant to paragraph §92202.02(A) (Time for Registration of Existing Extraction Facilities) of this Ordinance within one hundred and twenty (120) days of such effective date. All other extraction facilities existing on the effective date of this Ordinance shall obtain a permit within one hundred and twenty (120) days of such effective date. A permit shall not be a substitute for compliance with other applicable statutes, ordinances, and regulations, including but not limited to building codes, zoning ordinances or the State of California Well Construction Standards.

B. Time for Permitting New, Expanded or Reactivated Extraction Facilities

Except for replacement extraction facilities as defined below, any new extraction facility which is constructed, or existing extraction facility which is expanded to increased capacity, or reactivated after abandonment or closure, shall obtain a new or revised permit prior to such construction, expansion, or reactivation. A replacement of a legally existing extraction facility which has been closed within six (6) months prior to the activation of the replacement extraction facility shall not be

deemed to be a new extraction facility if the replacement extraction facility is within the same groundwater basin and its capacity is equal to or less than that of the closed extraction facility. Closure of the replaced extraction facility must be completed upon activation of the replacement extraction facility unless the extraction facility becomes a monitoring well for United States Geological Survey or County use.

C. Revocation of Extraction Facility Permit

In the event that an operator fails to comply with extraction statement filing requirements, or water flow measuring requirements, as required by this Ordinance, the Director shall provide notice of such failure and the intent to revoke the permit. Such notice shall be in writing, and sent by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located, at the address as shown on the latest equalized tax assessment rolls of the County. The operator or owner shall have fifteen (15) days after the mailing of such notice to comply with such requirements. If the operator or owner thereafter fail to comply, the Director may revoke the operator's permit. Notice of such revocation and of the right to appeal pursuant to Section 92209.01 (Revocation by Director) shall be sent by the Director in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located at the address as shown on the latest equalized tax assessment rolls of the County.

**§ 92202.04 EXTRACTION FACILITY WATER FLOW MEASUREMENTS**

Each extraction facility operator shall install a water flow measuring device on each extraction facility the operator operates. The measuring device shall conform to specifications established by the Planning Commission. The Director may require proof of the accuracy of any water flow measuring device installed pursuant to this Ordinance, in such manner and at such times as the Planning Commission shall prescribe. The cost of the acquisition, installation, maintenance and repair of the measuring device shall be paid by the operator. The Planning Commission may require that measuring devices be approved by the County. The operator shall maintain a record of the water extracted. The Planning Commission may establish reasonable methods to be used in computing the amount of water extracted by extraction facilities in addition to, or in place of, water flow measuring devices.

**§ 92202.05 EXTRACTION STATEMENTS**

Unless otherwise exempt from permitting or reporting pursuant to this ordinance, every extraction facility operator shall, for each year during which the extraction facility is in existence and not closed, file an extraction statement for each extraction facility operated by the operator. Extraction statements shall be filed on or before the forty-fifth day following the anniversary day of the issuance of the extraction permit. The Director, upon request of an operator made in writing prior to the filing date, and for good cause shown, may grant one thirty (30) day extension for the filing of any extraction statement.

**§ 92202.06 NOTICE OF CLOSURE OF EXTRACTION FACILITY**

An operator closing an extraction facility shall, within thirty (30) days of such closure, provide written notice of such closure to the Director. Thereafter, so long as the extraction facility shall remain closed, the extraction facility shall be exempt from all registration, permitting, reporting, and water flow measuring requirements of this Ordinance.

**§ 92202.07 WELL INTERFERENCE**

After notice to the public and hearing, the Planning Commission may recommend to the Board of Supervisors, and the Board of Supervisors may, after notice to the public and hearing, adopt reasonable operating regulations on extraction facilities to minimize well interference.

## TITLE 9

### DIVISION 22: GROUNDWATER ORDINANCE

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#### CHAPTER 3: EXPORTATION

§ 92203.00	EXPORTATION
§ 92203.01	EXPORTATION PERMIT
§ 92203.02	EXCESS SUPPLY REQUIRED FOR EXPORTATION
§ 92203.03	EXPORTATION FACILITIES WATERFLOW MEASUREMENT
§ 92203.04	EXPORTATION STATEMENT
§ 92203.05	NOTICE OF CLOSURE OF EXPORTATION FACILITY

#### § 92203.00 EXPORTATION

##### Registration of Exportation Facilities

Exportation facilities within the County shall be registered with the Director.

##### A. Time for Registration of Existing Exportation Facilities.

Exportation facilities existing on the effective date of this Ordinance shall be registered within one hundred and twenty (120) days of such effective date. Registration shall not be a substitute for compliance with other applicable statutes, ordinances, and regulations, including but not limited to building codes and zoning ordinances or the State of California Well Construction Standards.

##### B. Time for Registration of New, Expanded or Reactivated Exportation Facilities.

The operator of any new exportation facility which is constructed, or existing exportation facility which is expanded to increased capacity, or reactivated after abandonment or closure, shall be registered prior to such construction, expansion, or reactivation.

##### C. Form of Registration of Exportation Facility

Registration of exportation facilities shall be accomplished by filing a written registration with the Director in a form prescribed by the Planning Commission.

##### D. Revocation of Registration of Exportation Facility

In the event that an operator fails to comply with exportation statement filing requirements, or water flow measuring requirements, as required by this Ordinance, the Director shall provide notice of such failure and the intent to revoke the registration, in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located, at the address as shown on the latest equalized tax assessment rolls of the County. The operator or owner shall have fifteen (15) days after the mailing of such notice to comply with such requirements. If the operator or owner thereafter fails to comply, the Director may revoke the operator's registration. Notice of such revocation and of the right to appeal pursuant to Section 92209.01 (Revocation by Director) shall be sent by the Director in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located at the address as shown on the latest equalized tax assessment rolls of the County.

#### § 92203.01 EXPORTATION PERMIT

Unless otherwise exempt, no groundwater shall be exported from the County or from the groundwater basin from which the groundwater is derived unless the operator of the exportation facility has applied for and obtained a permit which establishes the quantity of groundwater which may be exported and the conditions on such exportation. Notwithstanding any conditions specified in the permit, operators of exportation facilities

shall be subject to the provisions of Section 92204.00 (Overdraft) of this Ordinance.

A. Time for Permitting Existing Facilities

Exportation facilities otherwise legally existing and operating on the effective date of this Ordinance, shall be exempt from the permitting requirements of this section, provided that the exportation facility has been registered pursuant to paragraph 92202.03(A) (Time for Registration of Existing Exportation Facilities) of this Ordinance within one hundred and twenty (120) days of such effective date. The operators of all other exportation facilities existing on the effective date of this Ordinance shall obtain a permit within one hundred and twenty (120) days of such effective date. A permit shall not be a substitute for compliance with other applicable statutes, ordinances, and regulations, including but not limited to building codes, zoning ordinances or the State of California Well Construction Standards.

B. Time for Permitting New, Expanded or Reactivated Exportation Facilities

Except for replacement exportation facilities as defined below, the operator of any new exportation facility which is constructed, or existing exportation facility which is expanded, to increased capacity or reactivated after abandonment or closure, shall obtain a new or revised permit prior to such construction, expansion, or reactivation. A replacement of a legally existing exportation facility which has been closed within six (6) months prior to the activation of the replacement exportation facility, shall not be deemed to be a new exportation facility if the replacement exportation facility is within the same groundwater basin and its capacity is equal or less than that of the closed exportation facility. Closure of the replaced exportation facility must be completed upon activation of the replacement exportation facility unless the exploration facility becomes a monitoring well for United States Geological Survey or County use.

C. Revocation of Exportation Permit

In the event that an operator fails to comply with exportation statement or extraction statement filing requirements, or water flow measuring requirements, as required by this Ordinance, the Director shall provide notice of such failure and intent to revoke the permit, in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the exportation facilities are located, at the address as shown on the latest equalized tax assessment rolls of the County. The operator or owner will have fifteen (15) days after the mailing of such notice to comply with such requirements. If the operator or owner thereafter fail to comply, the Director may revoke the operator's permit. Notice of such revocation and of the right to appeal pursuant to Section 92209.01 (Revocation by Director) shall be sent by the Director in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the extraction facilities are located at the address as shown on the latest equalized tax assessment rolls of the County.

**§ 92203.02 EXCESS SUPPLY REQUIRED FOR EXPORTATION**

The Planning Commission shall not issue any permit to export water from the County or from the groundwater basin from which the groundwater is derived unless the applicant has established that there is an available supply in excess of the amount currently required for reasonable and beneficial uses within the County, and the Planning Commission determines that such export, if permitted, would not adversely affect the rights of groundwater users within the County or the groundwater basin from which the groundwater is derived. The Planning Commission shall issue permits for export for such time periods and under such other terms and conditions, including the right to reduce or suspend exports, as the Planning Commission determines appropriate.

**§ 92203.03 EXPORTATION FACILITIES WATERFLOW MEASUREMENT**

Each exportation facility operator shall install a water flow measuring device on each exportation facility the operator operates. The measuring device shall conform to specifications established by the Planning Commission. The operator shall maintain a record of exportation. The Planning Commission may establish alternative reasonable methods to be used in computing the amount of water exported by exportation facilities.

**§ 92203.04 EXPORTATION STATEMENT**

Every exportation facility operator shall, for each calendar quarter during which the exportation facility is in existence and not closed, file an exportation statement in a form prescribed by the Planning Commission, for each such exportation facility operated by the operator. Exportation statements shall be filed on or before the last day of the month immediately following the end of the reporting quarter.

**§ 92203.05 NOTICE OF CLOSURE OF EXPORTATION FACILITY**

An operator closing an exportation facility shall, within thirty (30) days of such closure, provide written notice to the Director of such closure. Thereafter, so long as the exportation facility shall remain closed, the exportation facility shall be exempt from all permit, reporting, and water flow measuring requirements of this Ordinance.

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**TITLE 9**

**DIVISION 22: GROUNDWATER ORDINANCE**

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**CHAPTER 4: OVERDRAFT, PRIORITIES & FACTORS**

- § 92204.00 OVERDRAFT; PRIORITIES; FACTORS
- § 92204.01 SUSPENSION OR LIMITATION OF EXPORTATION ON OVERDRAFT
- § 92204.02 ALLOCATIONS OF SUSPENSIONS OR LIMITATIONS
- § 92204.03 OVERDRAFT; COUNTY USERS; LIMITATION
- § 92204.04 ALLOCATION OF AVAILABLE SUPPLY; BASIS; FACTORS
- § 92204.05 OPERATOR SHARE OF AVAILABLE SUPPLY; PERMIT LIMITED TO SHARE; INCREASE; TIME
- § 92204.06 STANDING IN OVERDRAFT HEARING

**§ 92204.00 OVERDRAFT, PRIORITIES, FACTORS**

- A. The Board of Supervisors, in enacting this Ordinance, intends to establish priority among groundwater uses as follows:
  - 1. First, to overlying domestic uses either (a) legally existing on the effective date of this Ordinance, or (b) developed thereafter on property zoned "R-1" or "R-2" on the effective date of this Ordinance.
  - 2. Second to other reasonable overlying groundwater uses.
  - 3. Third, to "Historical County Uses" and "CUP Holding Uses". "Historical County Uses" are legally existing County off-basin groundwater uses, provided that such uses have extraction facilities and/or exportation facilities legally existing on the effective date of this Ordinance. Such Historical County Uses shall have priority up to the extent of their maximum rate of use occurring within the thirty (30) years prior to the effective date of this Ordinance, as established at the time of registration by competent evidence, subject to review by the Director. Such maximum rate of use shall be limited to no more than the available supply which is available for such use as of the effective date of this Ordinance, as established at the time of registration by competent evidence, subject to review by the Director. "CUP Holding Uses" are groundwater uses subject to Conditional Use Permit (a) which has been approved on or before the effective date of this Ordinance, (b) which specifically authorizes such groundwater use, and (c) under which groundwater has been used for the specific purpose authorized within one year preceding the effective date of this Ordinance, unless such Conditional Use Permit authorizes the commencement of groundwater use following the effective date of this Ordinance. Such CUP Holding Uses shall have such priority up to the extent of groundwater extraction and/or exportation authorized in such Conditional Use Permit.
  - 4. Fourth, to other County off-basin groundwater uses.
  - 5. Fifth, it is the intent of the Board of Supervisors to hereby relegate future exports from the County to a priority junior to the "Priority Groundwater Uses" described in clauses (1), (2), (3) and (4) above, irrespective of the time such export uses are commenced.
- B. It is further the intent of the Board of Supervisors to recognize that such Priority Groundwater Uses have a prior right to groundwater within the County but, subject to such Priority Groundwater uses, to grant the Planning Commission the authority to consider the factors provided in Section 92204.02 (Allocations of Suspensions or Limitations) and 92204.04 (Allocation of Available Supply; Basis; Factors), and the reasonable needs of other users in allocating the available supply of groundwater.

**§ 92204.01 SUSPENSION OR LIMITATION OF EXPORTATION ON OVERDRAFT**

The Planning Commission shall, after notice to the public and a hearing which discloses competent evidence of overdraft in a groundwater basin, or threat of overdraft, reduce or suspend extraction and/or exportation by operators of exportation and/or extraction facilities from the groundwater basin or the County, excluding Historical County Uses as defined in Section 92004.00 (Overdraft; Priorities; Factors).

**§ 92204.02 ALLOCATIONS OF SUSPENSIONS OR LIMITATIONS**

In the event the Planning Commission limits or suspends extraction and/or exportation by exporters from the groundwater basin or the County pursuant to this section, such limitations or suspensions shall be allocated primarily on the basis of the volume of water being exported by an individual operator of an exportation facility in proportion to the total volume of water being exported from the basin, or from the County if Countywide limitations are being enforced. The Planning Commission may adjust any figure so arrived at up or down for any of the following factors:

- A. The type of use or uses served.
- B. The number of users served.
- C. Wasteful or inefficient use.
- D. Water conservation activities.
- E. Reasonable need.
- F. The quality of groundwater.
- G. Environmental impact.
- H. Any other factors that the Planning Commission reasonably believes it should consider in order to reach an equitable result among the water users.

**§ 92204.03 OVERDRAFT; COUNTY USERS; LIMITATION**

If the evidence produced at the hearing specified in Subsection 92204.01 (Suspension or Limitation of Exportation on Overdraft) of this Ordinance, or in any subsequent hearing, tends to show that reduction or suspension of exportation by exporters will be insufficient to eliminate existing or threatened conditions of overdraft in a groundwater basin, the Planning Commission may limit or suspend extractions by County users in the groundwater basin or the County. Any such limitation or suspension of extraction shall be done in the manner described in Subsection 92204.04 (Allocation of Available Supply; Basis; Factors) of this Ordinance.

**§ 92204.04 ALLOCATION OF AVAILABLE SUPPLY; BASIS; FACTORS**

In the event that the Planning Commission limits or suspends extractions by County users in order to eliminate existing or threatened conditions of overdraft, rights to the use of the available supply of groundwater shall be allocated on the basis of the priorities established in Section 92204.00 (Overdraft; Priorities; Factors). The Planning Commission may adjust any such allocations based on any of the following factors:

- A. The type of use or uses served.
- B. The number of users served.
- C. Wasteful or inefficient use.
- D. Water conservation activities.
- E. Reasonable need.
- F. The quality of groundwater.
- G. The groundwater basin or sub-basins affected by the overdraft.
- H. Environmental impact

- I. Any other factors that the Planning Commission reasonably believes it should consider in order to reach an equitable result within the entire County in accordance with the provisions of this Ordinance and of California Law.

**§ 92204.05 OPERATOR SHARE OF AVAILABLE SUPPLY; PERMIT LIMITED TO SHARE; INCREASE; TIME**

If the Planning Commission has imposed reductions on County users pursuant to this Ordinance, the Planning Commission shall grant an extraction facility permit, upon determining the operator's share of the available supply from the groundwater basin or sub-basin in the manner described in Subsection 92204.04 (Allocation of Available Supply; Basis; Factors) of this Ordinance. The Planning Commission may limit the operator's right to extract groundwater to such share and may postpone extraction for a period of up to twelve (12) months from the date of the permit. To the extent necessary, the Planning Commission shall adjust the authorized extractions by other groundwater users.

**§ 92204.06 STANDING IN OVERDRAFT HEARING**

In any proceeding to determine evidence of overdraft or to limit, suspend, or allocate groundwater extraction or groundwater exportation, only persons that extract groundwater from the affected basin(s), or own land overlying the affected basin(s), shall be entitled to participate in such proceedings or any appeal from such proceedings.

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TITLE 9

DIVISION 22: GROUNDWATER ORDINANCE

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CHAPTER 5: FEES

- § 92205.00      EXTRACTION AND EXPORTATION CHARGES
- § 92205.01      DETERMINATION
- § 92205.02      PAYMENT AND COLLECTION

§      **92205.00      EXTRACTION AND EXPORTATION CHARGES.**

Extraction and exportation charges levied pursuant to this Ordinance are for the purpose of groundwater resource management. Extraction charges and exportation charges are authorized to be levied for the benefit of those who rely directly or indirectly upon the groundwater resources of the County. Uniform extraction charges are authorized to be levied upon the extraction of groundwater from all groundwater extraction facilities, except the extraction of water stored pursuant to a groundwater storage agreement, and except upon the use of supplemental water as an alternate source in lieu of groundwater. Uniform exportation charges are authorized to be levied upon the exportation of groundwater through any groundwater exportation facility.

§      **92205.01      DETERMINATION**

After notice to the public and hearing, the Planning Commission shall recommend, on or before April 1 of each year, to the Board of Supervisors whether extraction and exportation charges are to be levied, and the amount of such charges. The Board of Supervisors shall, upon notice to the public and hearing, establish the amount of any such charges.

§      **92205.02      PAYMENT AND COLLECTION**

All extraction and exportation charges authorized pursuant to this Ordinance shall be due and payable on a quarterly basis. Extraction charges shall be calculated on the basis of groundwater extraction statements required to be filed pursuant to this Ordinance or other similar reports. Exportation charges shall be calculated on the basis of groundwater exportation statements required to be filed pursuant to this Ordinance or other similar reports. The amount of any unpaid extraction charges or exportation charges, together with any penalty or interest thereon shall constitute a lien on the land on which the extraction facility or exportation facility is located as of the same time and in the same manner as does the tax lien securing ad valorem property taxes.

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**CHAPTER 6: RECHARGE STANDARDS**

§ 92206.00	ARTIFICIAL RECHARGE STANDARDS
§ 92206.01	PERMITS
§ 92206.02	ARTIFICIAL RECHARGE MEASURING DEVICE
§ 92206.03	ARTIFICIAL RECHARGE STATEMENT
§ 92206.04	CLOSURE

**§ 92206.00 ARTIFICIAL RECHARGE STANDARDS.**

The Planning Commission may, after notice to the public and hearing, establish standards for artificial recharge.

**§ 92206.01 PERMITS**

Every operator of an artificial recharge facility within the County shall obtain a permit to operate each such facility.

**A. Existing Facilities**

The operators of an artificial recharge facility existing on the effective date of this Ordinance shall obtain a permit within 120 days of such effective date. A permit shall not be a substitute for compliance with other applicable statutes, ordinances, and regulations, including but not limited to building codes, zoning ordinances or the State of California Well Construction Standards.

**B. New, Expanded or Reactivated Facilities**

The operator of any new artificial recharge facility which is constructed, or existing artificial recharge facility which is expanded to increased capacity, or reactivated after abandonment or closure, shall obtain a new or revised permit prior to such construction, expansion, or reactivation.

**C. Application**

Applications for permits to operate artificial recharge facilities shall be made and decided in accordance with Subsection 92201.12 (Permit, Application Procedures) of this Ordinance.

**E. Revocation**

In the event that an operator fails to comply with artificial recharge statement filing requirements, or water flow measuring requirements, as required by this Ordinance, the Director shall provide notice of such failure and intent to revoke the permit, in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the artificial recharge facilities are located, at the address as shown on the latest equalized tax assessment rolls of the County. The operator or owner will have fifteen (15) days after the mailing of such notice to comply with such requirements. If the operator or owner thereafter fail to comply, the Director may revoke the operator's permit. Notice of such revocation and of the right to appeal pursuant to Section 92209.01 shall be sent by the Director in writing by registered mail to the operator at the operator's last known address and to any owner of the property on which the artificial recharge facilities are located at the address as shown on the latest equalized tax assessment rolls of the County.

**§ 92206.02 ARTIFICIAL RECHARGE MEASURING DEVICE**

Each artificial recharge facility operator shall install an artificial recharge measuring device on the operator's artificial recharge facility. The measuring device shall conform to specifications established by the Planning

Commission. The Planning Commission or the Director may require proof of the accuracy of any measuring device installed pursuant to this Ordinance, in such manner and at such times as the Planning Commission shall prescribe. The Planning Commission may establish alternative reasonable methods to be used in computing the amount of artificial recharge.

**§ 92206.03 ARTIFICIAL RECHARGE STATEMENT**

Every artificial recharge facility operator shall, for each calendar quarter during which the artificial recharge facility is in existence and not closed, file an artificial recharge statement for each such artificial recharge facility operated by the operator. Artificial recharge statements shall be filed on or before the last day of the month immediately following the end of the reporting quarter.

**§ 92206.04 CLOSURE**

An operator closing an artificial recharge facility shall, within thirty (30) days of such closure, provide notice to the Planning Commission of such closure, in a form prescribed by the Planning Commission. Thereafter, so long as the artificial recharge facility shall remain closed, the artificial recharge facility shall be exempt from all permit, reporting, and measuring requirements of this Ordinance.

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## TITLE 9

### DIVISION 22: GROUNDWATER ORDINANCE

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#### CHAPTER 7: GROUNDWATER AVAILABILITY

§ 92207.00	DEVELOPMENT PROJECTS; INFORMATION REQUIRED
§ 92207.01	DETERMINATION OF AVAILABILITY OF SUFFICIENT GROUNDWATER FOR PROJECT; ALLOCATIONS; ADJUSTMENT FACTORS
§ 92207.02	APPROVAL OF PROJECT BY AGENCY; DENIAL
§ 92207.03	RELATIONSHIP OF THIS SECTION TO OTHER LAW PERTAINING TO ADEQUANCY OF WATER SUPPLIES

#### § 92207.00 DEVELOPMENT PROJECTS; INFORMATION REQUIRED

Any person seeking approval from an agency having land use jurisdiction of a development project proposed to be located wholly or in part within the County, and which proposes to extract groundwater for service of water shall, at the time of filing an application with such local agency, file with the Director documents describing the proposed sources of water, the amount of water required, the amounts of groundwater previously used on the property proposed to be developed, the available supply of groundwater and such other information as the Director may reasonably require.

#### § 92207.01 DETERMINATION OF AVAILABILITY OF SUFFICIENT GROUNDWATER FOR PROJECT; ALLOCATIONS; ADJUSTMENT FACTORS

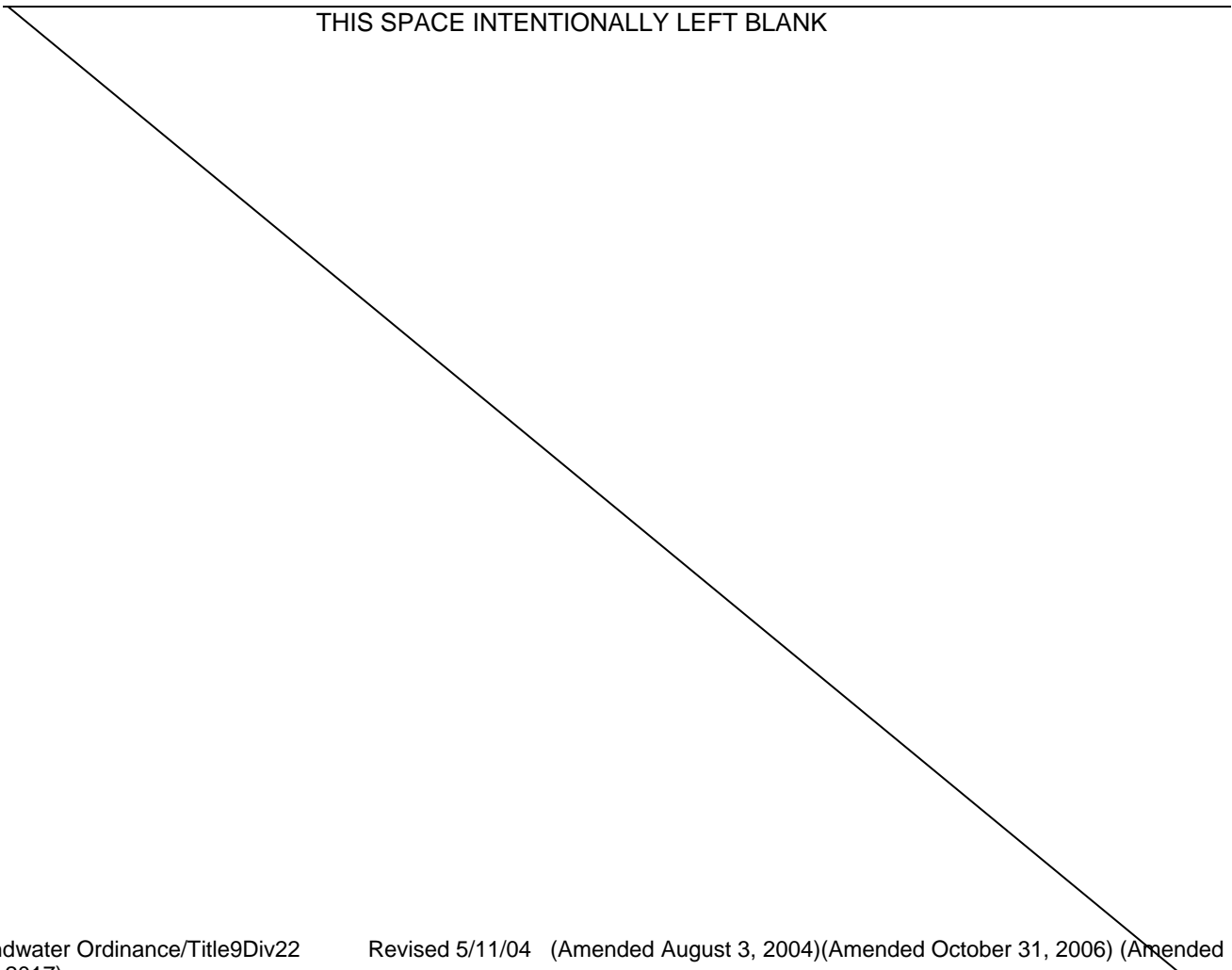
- A. The Director shall determine whether sufficient groundwater is available for the proposed use by a development project based on the projected use of groundwater by the project. The Director shall find that sufficient groundwater is available for use by a development project upon demonstration to the Director's satisfaction by the person seeking approval of the development project that the development project will not use more water than is found to be available pursuant to paragraph B. of this Subsection.
- B. In determining whether sufficient groundwater is available for a development project, whether located on overlying or off-basin lands, the Director shall take into account that groundwater is to be allocated on the basis of the priorities established in Section 92204.00 (Overdraft; Priorities; Factors), but that such allocation may be adjusted on the basis of any of the following factors:
1. The type of use or uses served.
  2. The number of users served.
  3. Wasteful or inefficient use.
  4. Reasonable needs of water users within the County.
  6. Any possible reduction or suspension of exports which would allow groundwater use to take place.
  7. The quality of groundwater.
  8. Environmental impact.
  9. Any other factors that the Director reasonably believes it should consider in determining whether sufficient water will be available to the development project.

§ **92207.02 APPROVAL OF PROJECT BY AGENCY; DENIAL**

- A. Notwithstanding any other provision of law, no agency having land use jurisdiction shall approve a proposed development project which proposes to use groundwater unless:
  - 1. The Director has found that sufficient groundwater is available to the development project pursuant to Subsection 92207.01 (Determination of Availability of Sufficient Groundwater for Project; Allocations; Adjustment Factors); or,
  - 2. The agency having land use jurisdiction conditions its approval on the positive determination action by the Director pursuant to Subsection 92207.01 (Determination of Availability of Sufficient Groundwater for Project; Allocations; Adjustment Factors).
- B. If, pursuant to subdivision (2) of paragraph A., an agency having land use jurisdiction conditionally approves a proposed development project, and if the Director subsequently finds that sufficient groundwater is not available for the development project, the development project shall be deemed to be denied by the agency.

§ **92207.03 RELATIONSHIP OF THIS SECTION TO OTHER LAW PERTAINING TO ADEQUANCY OF WATER SUPPLIES**

- A. The requirements of this section shall complement, rather than substitute for or displace, the requirements of California Water Code Section 10910 and California Government Code Section 66473.7. Any applicant whose proposed use is subject to the requirements of those sections shall submit information required under those sections to the Director, and the Director shall use all such information in determining, according to the criteria of those sections, whether sufficient groundwater is available to supply the proposed use.



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CHAPTER 8: PENALTIES

- § 92208.00 CIVIL PENALTIES
- § 92208.01 ADDITIONAL PENALTIES

§ 92208.00 CIVIL PENALTIES

Any person who does not comply with the provisions of this Ordinance or the Regulations adopted pursuant to this Ordinance shall be liable civilly for a sum not to exceed one thousand dollars (\$1,000) per day per violation, in addition to any other penalties provided for in this Ordinance.

§ 92208.01 ADDITIONAL PENALTIES

Any person liable for penalties under this Ordinance shall also be liable for reasonable attorney's fees and costs incurred by the County in the enforcement of this Ordinance and in the recovery of penalties.

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## TITLE 9

### DIVISION 22: GROUNDWATER ORDINANCE

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#### CHAPTER 9: REVIEW & APPEAL

§ 92209.00	REVIEW AND APPEAL
§ 92209.01	REVOCATION BY DIRECTOR
§ 92209.02	DENIAL OF AN APPLICATION BY DIRECTOR
§ 92209.03	DENIAL OF APPLICATION BY PLANNING COMMISSION
§ 92209.04	REVIEW OF PLANNING COMMISSION ENFORCEMENT ORDER
§ 92209.05	APPEAL PROCEDURE BEFORE THE BOARD OF SUPERVISORS
§ 92209.06	EXHAUSTION OF ADMINISTRATIVE REMEDIES
§ 92209.07	MANDATE TO REVIEW REGULATION OR RESOLUTION
§ 92209.08	RECONSIDERATION OF DECISION BY PLANNING COMMISSION; PETITION
§ 92209.09	FINALITY OF DECISIONS; APPEAL
§ 92209.10	SEVERABILITY

#### § 92209.00 REVIEW AND APPEAL

A person aggrieved by a decision of the Board of Supervisors, the Planning Commission or the Director, pursuant to this Ordinance, may seek review of such decision as provided in this Ordinance.

#### § 92209.01 REVOCATION BY DIRECTOR

If the Director revokes a registration or permit pursuant to this Ordinance, the registrant or operator shall have thirty (30) days after revocation by the Director to request that the revocation be reviewed by the Planning Commission. The request for review shall be filed by the applicant with the Director.

#### § 92209.02 DENIAL OF AN APPLICATION BY DIRECTOR

If the Director denies an application for a permit or approval of a development project pursuant to this Ordinance, the applicant shall have fifteen (15) days after denial by the Director to request that the application be considered by the Planning Commission. The request for review shall be filed by the applicant with the Director, along with the appropriate appeal fee as established by the rules and regulations.

#### § 92209.03 DENIAL OF APPLICATION BY PLANNING COMMISSION

In the event that the Planning Commission denies an application for a permit or approval of a development project pursuant to this Ordinance, the applicant shall have fifteen (15) days after denial by the Planning Commission to request that the denial of the application be considered by the Board of Supervisors. The request for review shall be filed by the applicant with the Clerk of the Board of Supervisors.

#### § 92209.04 REVIEW OF COMMISSION ENFORCEMENT ORDER

Any order issued by the Planning Commission in enforcement of this Ordinance, may be appealed, by any person aggrieved, to the Board of Supervisors by written request filed with the Clerk of the Board of Supervisors within fifteen (15) days after issuance of the order by the Planning Commission.

#### § 92209.05 APPEAL PROCEDURE BEFORE THE BOARD OF SUPERVISORS

In the event that any decision or order of the Planning Commission is appealed to the Board of Supervisors, the Board of Supervisors shall provide a de novo hearing on the appeal and provide notice thereof in the same manner as that required of the Planning Commission.

**§ 92209.06 EXHAUSTION OF ADMINISTRATIVE REMEDIES**

No decision of the Director, the Planning Commission, or the Board of Supervisors shall be subject to review by, or appealed to the Superior Court unless and until the appeals procedures specified in this Section 92209.00 (Review and Appeal) have been exhausted.

**§ 92209.07 MANDATE TO REVIEW REGULATION OR RESOLUTION**

Within sixty (60) days after publication of any regulation or resolution adopted pursuant to this Ordinance, any interested party may file with the superior court a petition for writ of mandate for the review thereof. Failure to file such an action shall not preclude a party from challenging the validity of such a regulation or resolution in any judicial proceedings brought to enforce such Regulation or resolution or for such other civil remedies, including the imposition of civil penalties.

**§ 92209.08 RECONSIDERATION OF DECISION BY PLANNING COMMISSION; PETITION**

The Planning Commission may reconsider all or part of a decision on petition of any person affected by the decision, only upon a showing that the Planning Commission failed to follow an applicable procedure established by this Ordinance or Regulation adopted pursuant to this Ordinance. Any such petition shall be filed with the Planning Commission within fifteen (15) days after the decision by the Planning Commission. The Planning Commission shall decide whether to reconsider its decision within sixty (60) days after the petition is filed. Failure to seek reconsideration will not preclude judicial review.

**§ 92209.09 FINALITY OF DECISIONS; APPEAL**

A decision of the Planning Commission shall be final. Any person aggrieved by a decision of the Planning Commission may, within fifteen (15) days of the decision, appeal the decision to the Board of Supervisors.

**§ 92209.10 SEVERABILITY**

If a court of competent jurisdiction holds this Ordinance or any of its provisions invalid, or application of this ordinance or any of its provisions invalid as to any person, the remaining valid portions of this Ordinance and its valid application to other persons shall continue in full force and effect, to the end that any portion or application held invalid shall be severable.

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