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ORDINANCE NO. _____(N.S.)
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ADMINISTRATIVE CODE ARTICLE
10249 SECTIONS 67.720 AND 67.750, RELATING TO GROUNDWATER

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to comply with Judgment Findings and Order for California Superior Court Case No. 37-2020-00005776; *Borrego Water District v. All Persons who claim a right to extract Groundwater in the Borrego Valley Groundwater Subbasin No. 7.024-01, et al.*

Section 2. Section 67.720 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 67.720. (Borrego Valley)

The following provisions apply to Projects that would extract or use groundwater resources in the Borrego Springs Subbasin. This area is identified in California's Groundwater (Bulletin 118) as basin No. 7-024.01 (California Department of Water Resources, 2020 update). Valley Exemption Area. This area is shown on the map entitled "Groundwater Limitations Map", approved by the Board of Supervisors on May 5, 2004 (Item 15), on file with the Clerk of the Board of Supervisors.

Water rights in the Borrego Springs Subbasin have been adjudicated. The adjudication of groundwater pumping rights in the Borrego Springs Subbasin was approved by the Superior Court of California on April 8, 2021: *Borrego Water District v. All Persons Who Claim a Right to Extract Groundwater in the Borrego Valley Groundwater Subbasin No. 7.024 Whether Based on Appropriation, Overlying Right, or Other Basis of Right, and/or Who Claim a Right to Use of Storage Space in the Subbasin; et al.* (Case No. 37-2020-00005776) [Judgment].

All future water use will be subject to the Judgment and governed by the Borrego Springs Watermaster (Watermaster). The Watermaster, with oversight from the Superior Court of California, is the entity responsible for managing groundwater resources in the Borrego Springs Subbasin and tasked with ensuring water is allocated according to established water rights. Water production in the Borrego Springs Subbasin is authorized and constrained in accordance with all terms and provisions contained in the Judgment and contained in Watermaster Rules and Regulations (adopted and amended from time to time in order to implement the terms of the Judgment). The Judgment assigns Baseline Pumping Allocations (BPAs) to specific parcels which become the basis for annual pumping allowances to ensure sustainable groundwater management of the basin.

- A. A Project listed in Section 67.711 proposing to use groundwater resources shall obtain adequate BPA for all water uses in accordance with the requirements of the Watermaster Board. Prior to approval of a Project, the applicant shall demonstrate to the satisfaction of the Director the ability to obtain necessary BPA. ~~A Project listed in Section 67.711 that will extract or use at least one acre-foot (325,851 gallons) of groundwater per year shall include one or more groundwater use reduction measures listed in subsection B below.~~

The groundwater use reduction measures shall fully offset the amount of groundwater that the proposed project will use and shall result in “no net increase” in the amount of groundwater extracted from the Borrego Valley Exemption Area. The groundwater use reduction measures shall be implemented within the Borrego Valley Exemption Area as shown on the “Groundwater Limitations Map.”

B. One or more of the following groundwater use reduction measures may be used:

1. In accordance with the following provisions, grant an easement to the County of San Diego on off-site land that is being actively irrigated:

a) The easement shall permanently and completely prohibit the use, extraction, storage, distribution or diversion of groundwater on the property subject to the easement, except for:

i. The use of a maximum of one acre-foot of groundwater per year for a single family residence; or

ii. A subsequent project on the land subject to the easement that would require discretionary approval by the County if groundwater use reduction measures are implemented that fully offset the amount of groundwater that the proposed project would use. Groundwater use reduction measures that may be used for these projects include the measures listed in subsections 67.720.B.1 (this subsection) and 67.720.B.2.

b) The amount and evidence of historic groundwater use and the terms and conditions of the easement shall be subject to the approval of the Director. Evidence of historic groundwater use on the land subject to the easement may include, but is not limited to, a survey by a California Professional Land Surveyor or Professional Engineer, historical aerial photographs, and a written description of the historical water use.

c) The use of the water on the land subject to the easement shall have started by January 1, 2008 and shall have continued at least to the date the proposed easement is submitted to the Department of Planning and Development Services.

d) The quantity of water available for offset shall be based on the total groundwater consumptive use for each vegetation type on the land subject to the easement as determined by the values in the following table:

Vegetation Type	Groundwater Consumptive Use Per Acre (acre-feet/acre/year)
Citrus (all types)	4.9
Nursery plants	4.5

Palms (all types)	3.7
Tamarisk	1.7
Turf (warm season)	5.1
Turf (winter cool/ summer warm)	5.6
Potatoes	0.8

To determine the groundwater consumptive use for each vegetation type within the easement area, the acreage of irrigated land for a particular vegetation type is multiplied by the "Groundwater Consumptive Use Per Acre" as listed in the table above. The "Groundwater Consumptive Use Per Acre" value for any vegetation types not listed in the table above shall be determined by the Director.

- e) ~~Submit the easement to the Department of Planning and Development Services for review, approval and recordation.~~
- 2. ~~Water credits issued by the Borrego Water District that comply with the Memorandum of Agreement between the Borrego Water District and the County of San Diego regarding Water Credits and any amendments thereto, on file with the Clerk of the Board of Supervisors.~~
- 3. ~~Provide evidence to the satisfaction of the Director that all (or a portion of) the on-site water use occurring prior to the date of permit application will be permanently eliminated as a result of the Project.~~
- 4. ~~Any other legally enforceable mechanism that achieves permanent water savings, subject to approval by the Director.~~

Section 3. Section 67.750 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 67.750. (Exemptions).

(a) - (c) [no changes].

(d) Projects within the Borrego Springs Subbasin are exempt from minimum parcel sizes imposed by Section 67.722.A.

Section 4. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
Claudia G. Silva, County Counsel
BY: xxx, Senior Deputy County Counsel