ORDINANCE NO. 19-01

AN ORDINANCE REQUIRING REGISTRATION OF GROUNDWATER USE FACILITIES, WATER USER REPORTING AND AUTHORIZING THE ADOPTION OF GROUNDWATER SUSTAINABILITY FEE

The Board of Directors of the Santa Rosa Plain Groundwater Sustainability Agency, State of California, hereby ordains as follows:

ARTICLE 1. General

Section 1. Title

This ordinance shall be known as the "Groundwater Reporting and Fee Ordinance" of the Santa Rosa Plain Groundwater Sustainability Agency.

Section 2. Definitions

As used in this ordinance, the following terms shall have the meanings stated below:

A. "Acre-Foot" or "AF" of water is the equivalent amount of water covering 1 acre to a depth of 1 foot, and equals 326,000 gallons or 43,560 cubic feet of water,

B. "Agency" means the Santa Rosa Plain Groundwater Sustainability Agency.

C. "De Minimis Extractor" means a person who extracts, for domestic purposes, two acre-feet or less per year.

D. "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

E. "Extraction Facility" means any device or method for extraction of groundwater within a groundwater basin or aquifer.

F. "Groundwater" means water beneath the surface of the earth within a zone in which the soil is sufficiently saturated with water to allow collection and extraction.

G. "Municipalities/Large Water Service Provider" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

H. "Operator" means a person who operates a groundwater Extraction Facility. In the event the Agency is unable to determine who operates a particular Extraction Facility, then "operator" shall mean the person to whom the Extraction Facility is assessed by the County Assessor, or, if not separately assessed, the person who owns the land upon which the Extraction Facility is located.

I. "Person" includes any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, and any federal agency.

J. "Santa Rosa Plain Groundwater Basin" or "Basin" or "SRP" shall mean the Santa Rosa Plain Groundwater Subbasin which is designated basin number 1-55.01 in Department of Water Resources' Bulletin No. 118 and as its boundaries may be modified from time to time through the procedures described in California Water Code section 10722.2 or by the Department of Water Resources under its separate authority.

K. "Small Water Service Provider" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year

ARTICLE 2. Registration of Groundwater Extraction Facilities, Methods of Computing Extractions and the Recordation of Extractions

Section 1. Registration

All groundwater extraction facilities within the boundaries of the Agency shall be registered with the Agency within thirty (30) days of notice given to the operator.

The Operator of an Extraction Facility shall register the Extraction Facility and provide at a minimum the following information on a form provided by the Agency. The Agency form may ask for, and the Operator shall supply additional information if requested.

A. Name, mailing address, and email address of the operator.

B. Name and address of the owner of the land upon which the Extraction Facility is located.

C. A description of the equipment associated with the Extraction Facility.

D. Location of the water Extraction Facility.

Section 2. Methods of Estimating Extractions

The methodology for estimating groundwater extraction is as follows:

A. *Municipalities/Large Water Service Provider Use*: Cities, municipalities and large water service providers in the SRP Jurisdiction use groundwater for municipal water supply. Future groundwater use by Municipalities and Large Water Service providers in the Agency's jurisdiction provide the amount of groundwater pumped annually to the California Department of Water Resources (DWR) Division of Drinking Water (DDW). Future groundwater use of these users will be projected based on a running average of the last five years of pumping data.

B. *Small Water Service Provider Use:* The Basin has a variety of Small Water Service Providers (SWSPs) that use groundwater for a variety of purposes. These SWSPs vary between Wineries, Warehouses, Office Parks, Office Parks, Schools, Mutual Water Companies (water companies that provide water service to rural areas), and other commercial properties. These SWSPs provide the amount of groundwater pumped annually to the California Department of Water Resources (DWR) Division of Drinking Water (DDW). Future groundwater use of these SWSPs will be projected based on an average of the available pumping data for the last five years.

C. *Agriculture and Irrigation Use*: Basin agricultural groundwater pumping will be estimated using Sonoma County Land Use Data from California Department of Water Resources (DWR). Calculated water use of groundwater irrigated agricultural parcels will be estimated by applying DWR applied water factors to DWR Land Use Data crop coverage data. Other irrigation uses such as turf and golf course irrigation will be estimated by applying the relevant DWR applied water factor per acre per year.

D. *Rural Residential*: Rural residential parcel groundwater use will be estimated using a combination of Sonoma County Assessor data and service areas of water service providers (excluding wholesale water service providers). Any parcel that is located outside of the service area of water service provider and has a residential use shall be *assumed* to have a well, or share a well with another parcel, within the Agency's jurisdiction. Note, well records on the existence and precise location for wells within the SRP are incomplete and are not sufficient to locate Extraction Facilities to individual parcels. An estimated annual use of 0.5 AF shall be assumed for the first residential dwelling unit. An additional 0.5 AF shall be assumed for each additional residential dwelling unit on the parcel.

E. *Urban Residential with Well:* Urban residential parcels with known or suspected wells will be assumed to use 0.1 AFY for outdoor irrigation. It is assumed that all indoor potable use will be covered by the water service provider serving the property.

Section 3. De minimis Extractors

A. It is the intent of the Agency to regulate De Minimis Extractors by this Ordinance, as provided for in Water code section 10730(a).

ARTICLE 3. Groundwater Sustainability Fee

Section 1. Groundwater Sustainability Fee

The Agency shall establish a groundwater sustainability fee by resolution which shall be payable by all persons operating groundwater extraction facilities for all groundwater extracted after July 13, 2019, in the amount as established by the Board. The ground water sustainability fee may be collected by any lawful method set forth in Water Code section 10730.

Section 2. Penalties

Any operator or person who intentionally violates any provision of this ordinance, or any resolution authorized by Article 3, shall be guilty of an infraction, and in addition to the fees due may be required to pay a fine to the Agency of not to exceed five hundred dollars ($500).

Any operator or person who negligently or intentionally violates any provision of this ordinance, or any resolution authorized by Article 3, may also be liable civilly to the Agency for a sum not to exceed one thousand dollars ($1,000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.

Upon the failure of any operator or person to comply with any provision of this ordinance, the Agency may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those which may be provided elsewhere in this ordinance or otherwise allowed by law.

The Agency may petition the Superior Court of the County of Sonoma to recover any sums due the Agency.

ARTICLE 4. Appeals

(1) Any person may contest the determination that their property is subject to registration under this ordinance, the imposition or amount of the groundwater user fee, or penalties imposed pursuant to Article 3, Section 2 above by requesting a hearing pursuant to the procedures set forth in this section. The request must be made in a written appeal submitted within thirty (30) days after the service of the notice of imposition of penalties. The appeal must contain:

(a) A brief statement setting forth the interest the appealing party has in the matter.

(b) A brief statement of the material facts that the appellant claims supports the appeal.

(c) An address at which the appellant agrees to receive, by first class-mail, notice of any additional proceedings or an order relating to the appeal. Service of such notices shall be effective three (3) days following deposit in the first-class mail.

(d) A signature by the appellant under penalty of perjury.

(2) The failure of any person to file a proper appeal in accordance with this section shall constitute a failure to exhaust administrative remedies, and a waiver of the right to an administrative hearing and adjudication of the matter subject to appeal.

(3) Only after a request for hearing is received within the required period, shall the Agency set the date and time for the appeal hearing.

The hearing shall be set for a date no more than sixty (60) days from the date of a timely filed appeal unless the Agency Administrator determines that good cause exists for an extension of time.

(4) The appellant shall be served with notice of the date, time, and place set for the hearing at least fifteen (15) days prior to the date of the hearing. Notice shall be mailed to the address provided in the written appeal.

(5) If the Agency's Administrator or designee submits an additional written report concerning the imposition of penalties to the Board of Director's for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

(6) Hearings may be continued once at the request of the appellant or the Administrator. The Board of Directors may also continue the hearing on its own accord for cause.

(7) The hearing serves to provide full opportunity for a person subject to groundwater facility registration, groundwater user fee, or penalties to object to the imposition of said regulations, fees, or penalties.

(8) At the place and time set forth in the notice of hearing, the Board of Directors shall conduct a hearing and consider all written or oral evidence presented at the hearing. Administrative hearings are informal and need not be conducted according to technical rules related to evidence and witnesses, except as provided herein. Irrelevant evidence shall be excluded, and the Board of Directors has discretion to exclude evidence if it its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time. Each party shall have the opportunity to present evidence in support of that party's case and to cross examine any witnesses present.

The notice requiring groundwater facility registration, imposing fees, or imposing penalties and any additional reports submitted by the Agency's enforcing officer or his or her designee shall constitute prima facie evidence of the respective facts contained in those documents.

Parties may represent themselves or be represented by any person of their choice.

(9) The Board of Directors may continue the hearing and request additional information from the Agency's enforcing officer or the appellant prior to issuing a written decision.

(10) Absent a showing of good cause or the prior granting of a continuance in writing, the failure of the appellant to appear at the hearing shall constitute a forfeiture of the appeal and a failure to exhaust administrative remedies.

(11) No later than twenty (20) days after the date on which the hearing concludes, or after the appellant has failed to appear at the hearing, the Board of Directors will issue a written decision to the appellant to (i) uphold or reject the finding of a violation of this ordinance and (ii) uphold, modify, suspend, or cancel the fees or penalties imposed. The decision shall list the reason or reasons for the decision and may order the appellant to comply with this ordinance.

(12) The decision of the Board of Directors shall be final.

(13) The Board of Director's decision may be appealed to the Superior Court of Sonoma County in accordance with the provisions set forth in Government Code section 53069.4 or Code of Civil Procedure section 1094.5.

ARTICLE 5. Effective Date

Section 1. Effective Date

This ordinance shall become effective on the 30th day after adoption.

ADOPTED THIS 13th day of June, 2019, by the following vote:

AYES: 8 (Fudge, Jacobs, Dutton, Nagle, Hopkins, Belforte, Harvey, Schwedhelm)

NOES: 0

ABSENT: 1 (Zane)

Chair, Board of Directors
Santa Rosa Plain Groundwater Sustainability Agency

ATTEST:

By: _____
Clerk of the Board