

CITY OF OJAI

ORDINANCE NO. 861

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI,
CALIFORNIA EXTENDING A MORATORIUM ON THE ISSUANCE OF PERMITS
FOR PRIVATE WATER WELLS AND ESTABLISHING CERTAIN EXCEPTIONS
AND PROCEDURES FOR WAIVERS**

SECTION 1. Findings. The City Council makes the following findings in support of the immediate adoption and application of this interim ordinance regulating issuance of permits for water wells within the City of Ojai.

- A. Due to lengthy drought conditions in the State of California and in Ventura County, an urgency condition regarding groundwater now exists within Ventura County, including the Ojai Valley. The condition of groundwater resources in watersheds and groundwater basins in Ventura County, including the Ojai Valley Groundwater Basin (the "Ojai Valley Basin") underlying the City of Ojai, is presently critical because:
1. On January 17, 2014, the Governor of the State of California proclaimed a state of emergency due to current drought conditions and called on Californians to reduce their water usage by 20 percent. On March 1, 2014, the Governor signed into law emergency drought legislation that finds and declares that California is experiencing an unprecedented dry period and shortage of water for its citizens, local governments, agriculture, environment, and other uses.
 2. For the past three years, rainfall in Ventura County has been far below long-term averages. The last two years have been two of the five driest years on record. During the winter of 2012/13, the county received approximately one-third the long term average precipitation.
 3. The Ojai Valley Basin has registered a sharply declining storage volume at or approaching critical levels for the spring 2013 measurement as compared to the 2012 spring measurement. Water levels decreased 78.4 feet in the Ojai Valley Basin. The far exceeds the County basin average of approximately 13 feet. Ventura County records indicate that the decline in Ojai Valley Basin is the greatest in all of the County groundwater basins. Continued increases in the new wells and extractions from new wells could lead to conditions such as degraded water quality, land subsidence, and damage to aquifers in the Ojai Valley.
 4. In the Ojai Valley Basin, the County of Ventura has indicated that the incidence of wells going dry contributing to increased demand on Lake Casitas.

5. Groundwater is a vital resource for health and safety in the Ojai Valley and the City of Ojai, with many areas and users fully reliant on groundwater as the only source of water.
6. State legislation has been adopted that requires that groundwater sustainability plans be adopted for groundwater basins deemed to be of "high" or "medium" priority and that management strategies be implemented to bring these basins into long-term sustainability. Pursuant to California Water Code Section 10722.4, the Ojai Valley Basin is designated as High or Medium Priority under DWR's California Statewide Groundwater Elevation Monitoring Program (CASGEM).
7. Additional wells could necessitate that scarce water supplies be shared among a larger number of water users, increasing the adverse impact of any necessary water extraction reductions upon existing water users.
8. On October 28, 2014, the Ventura County Board of Supervisors considered adoption of an urgency ordinance similar to this ordinance establishing a moratorium on water well permits within the unincorporated areas of the Ojai Valley and the Ojai Valley Basin. Since water supplies do not respect political boundaries, it is necessary and helpful for the City of Ojai to adopt conforming regulations on water well permits as those adopted by the County to ensure compatible management of the water resources of the Ojai Valley Basin.
9. On October 28, 2014 the City Council adopted an urgency ordinance establishing a moratorium on issuance of permits for private water wells for 45 days. On December 9, 2014 a public hearing was held, and the moratorium was extended to October 28, 2015.
10. The statewide drought, and its local negative impacts, continued unabated. On April 1, 2015, the Governor issued a further Executive Order confirming and continuing the previous declarations of emergency, finding that the severe drought continues to threaten the state and its resources and directing the State Water Resources Control Board to develop and impose regulations intended to achieve a 25% reduction in urban use of potable water use by February 2016. On May 5, 2015, the State Water Resources Control Board adopted emergency water conservation regulations to implement this order, requiring drought reduction efforts statewide, including a limit on outdoor watering in Ojai to only two days per week.

B. This urgency ordinance is necessary for the following reasons:

1. to stabilize groundwater extractions in the Ojai Valley Basin until appropriate regulatory oversight, as recently designated by the state and as begun by the Ojai Basin Groundwater Management Agency, can take place.
2. to protect current communities, growers and other users, who are reliant on groundwater, from the adverse consequences that can result from a rush of new pumpers permanently impacting their ability to obtain needed water.
3. to decrease the possibility that groundwater supplies will be exhausted during this extended drought and before groundwater sustainability plans can be implemented.

4. to decrease the likelihood that people will further tap stressed groundwater supplies to avoid restrictions and conservation efforts being made by water districts.
 5. to conserve critical and dwindling water supplies during a severe statewide and local drought so that there will be adequate supplies for health, safety, and welfare.
 6. to establish consistent water well regulations throughout the Ojai Valley Basin.
- C. On October 13, 2015, the Ojai City Council conducted a duly noticed public hearing and considered testimony regarding this ordinance, extending this moratorium for one year.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Adoption of Findings. The City Council finds that the findings set out in Section 1 of this ordinance are true and are hereby incorporated by reference in this ordinance.

SECTION 2. Adoption as Urgency Ordinance; Authority. This ordinance is adopted as an urgency ordinance pursuant to powers conferred on the City by California Constitution Article 11, Section 7, California Government Code Sections 36934 and 36937, and California Government Code Section 65858(a), and shall be effective immediately upon its adoption. It shall extend the moratorium established by Ordinance No. 847 for an additional 10 months and 15 days until October 28, 2015. As detailed in the findings set forth above, the City Council finds and determines that the adoption of this urgency ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare. This urgency interim ordinance must be adopted by not less than a four-fifths (4/5th) vote of this City Council.

SECTION 3. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment as it includes regulations to protect groundwater resources within watersheds in the City of Ojai from further depletion (CEQA Guidelines §15061(b)(3)); because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of a natural resources, namely the groundwater resources within watersheds in the City of Ojai (Class 7, CEQA Guidelines §15307); and because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of the environment, including groundwater resources within watersheds in the City of Ojai (Class 8, CEQA Guidelines §15308). No exceptions to these exemptions are present.

This Ordinance is also exempt from CEQA because it is an urgency Ordinance that prevents or mitigates impacts from the sudden, unexpected failures of existing wells within watersheds in the City of Ojai which failures impose a clear and imminent danger to existing residential and agricultural water wells in the watersheds in the unincorporated area of Ventura County and to those that rely on the water from those wells, and which requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. This urgency Ordinance, therefore, qualifies for an exemption under Public Resources Code Section 21080(b)(4) and CEQA Guidelines section 15269(c). A Notice of Exemption has been completed in compliance with CEQA and the CEQA Guidelines.

SECTION 4. Applicability. This Ordinance applies to that real property in the City of Ojai as the Ojai Valley Groundwater Basin is designated by the California Department of Water Resources ("DWR") as High or Medium Priority Basin.

SECTION 5. Temporary Moratorium. Notwithstanding the provisions of Title 7, Chapter 3, Article 2 of the Ojai Municipal Code, from and after the effective date of this ordinance, due to drought and groundwater conditions in the Ojai Valley and the City of Ojai, no permits for the construction of new water wells or modification or repair of existing wells shall be issued and no person shall construct a new water well or modify and repair an existing water well, except as provided in Section 6, below.

SECTION 6. Exceptions to Water Well and Permit Prohibitions. The water well and permit prohibitions contained in this ordinance shall not apply to:

- (a) Water wells permits for the repair, modification or replacement of an existing permitted water well or legal nonconforming water well involving no increase in well capacity. Well capacity means the name plate performance rating for the existing well equipment.
- (b) Water well permits for backup or standby wells which do not initiate any new or increased use of groundwater. For purposes of this Section, a new or increased uses of groundwater is a use that did not exist before the effective date of Ordinance No. 847.
- (c) Water well permit applications filed on or before the effective date of Ordinance No. 847.
- (d) Water well permits applications provided that a groundwater sustainability agency has adopted and submitted to DWR a groundwater sustainability plan or alternative plan for the Ojai Valley Basin pursuant to Water Code Sections 10727 and 10733.6 .

SECTION 7. Waivers to the Water Well and Permit Prohibitions. A waiver to the water well and permit prohibitions of this ordinance may be granted by the City Council on a case by case basis, upon receipt of an application for a waiver and upon the City Council's determination that the application demonstrates:

- (a) That there are special circumstances or exceptional characteristics of the real property and groundwater which do not apply generally to comparable real property and groundwater conditions in the same vicinity, and that the granting of such waiver will not be detrimental to the condition of groundwater resources; or
- (b) That strict application of the water well prohibition as it applies to the real property or its groundwater conditions will result in practical difficulties or unnecessary hardships inconsistent with the purpose and findings of this ordinance and that the granting of such waiver will not be detrimental to the condition of groundwater resources.

SECTION 8. Severability. Should any section, subsection, clause, or provision of this ordinance be held to be invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each

section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 9. Effective Date. In light of the findings and declaration of facts in Section 1, the City Council declares that this ordinance is necessary as an urgency measure for the immediate preservation of the public peace, health, and safety, and shall take effect immediately upon its passage. It shall be of no further force or effect forty-five (45) days from the date of adoption unless extended following a public hearing, as provided in Government Code Section § 65858.

SECTION 10. Publication. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the Ojai Valley News, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.


CITY OF OJAI, CALIFORNIA


Severo Lara, Mayor

ATTEST:


Rhonda K. Basore, City Clerk

APPROVED AS TO FORM:


Matthew Summers, City Attorney

STATE OF

CALIFORNIA)

COUNTY OF VENTURA

) CITY OF OJAI

I, Rhonda K. Basore, City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced and adopted at a regular meeting of the City Council of the City of Ojai held on October 13, 2015 by the following ⁴/₅ vote:

AYES: Blatz, Clapp, Haney, Lara, Weirick

NOES: None

ABSTAIN: None

ABSENT: None


Rhonda K. Basore, City Clerk