

CITY OF OJAI

ORDINANCE NO. 865

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

WHEREAS, on January 17, 2014, the Governor of the State of California proclaimed a state of emergency in the State of California due to current drought conditions in the state; and

WHEREAS, the Governor's proclamation also noted that the snowpack in California's Sierra Nevada Mountains was approximately 20 percent of the normal average for January 2014, and that the state is experiencing extremely dry conditions that have persisted since at least 2012; and

WHEREAS, the Governor's January 17, 2014 proclamation called upon all Californians to reduce their water usage by 20 percent; and

WHEREAS, the drought has only gotten worse since 2014, as the Governor has issued further proclamations of a continued state of emergency due to the drought on April 25, 2014, December 22, 2014, April 1, 2015, and November 13, 2015; and

WHEREAS, the State Water Resources Control Board has adopted a series of steadily tightened water conservation standards, now imposing a graduated series of water conservation restrictions intended to achieve a statewide reduction of 25% potable water usage relative to usage levels in 2013; and

WHEREAS, to date, the state has not yet met this conservation goal; and

WHEREAS, in the Ojai Valley, the water supply is largely dependent on Lake Casitas and Lake Casitas is only approximately 36% full and is expected to drop below 30% during the 2017 water year; and

WHEREAS, the Casitas Municipal Water District, the principal wholesale water supplier for the City and the wider Ojai Valley, imposed Stage III water conservation restrictions by Resolution of its Board of Directors on April 27, 2016, citing the ongoing critical statewide drought and its particular local severity given the limited available sources of water for the Ojai Valley; and

WHEREAS, the current trajectory of Lake Casitas reservoir supply puts the entire Ojai Valley at significant risk for a water supply crisis within the next few years and without additional supply sources or additional water conservation measures to stretch existing supplies, this trajectory threatens the general welfare of every citizen living and doing business in the Ojai Valley along with the viability of the City and Ojai Valley's habitat for all plants and animals; and

WHEREAS, as the drought continues, the limited groundwater sources available locally in the Ojai Valley will become further stretched and will be a critical source of water to supplement the remaining water supply available from Lake Casitas; and

WHEREAS, Ventura County records indicate that the decline in groundwater levels in the Ojai Valley Basin during the on-going drought is the greatest in all of the groundwater basins in the County; and

WHEREAS, the addition of new and additional groundwater demand via water wells and extractions from new wells would lead to conditions such as degraded water quality, land subsidence, damage to aquifers in the Ojai Valley, and thereby threaten the public's health and safety via threatening the groundwater supplies that serve as a critical backup water supply for the City and the wider Ojai Valley; and

WHEREAS, in the Ojai Valley Basin, the County of Ventura has indicated that the incidence of wells going dry is contributing to increased demand on Lake Casitas; and

WHEREAS, 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, and all users of Lake Casitas water, including almost of the City's population, reliant on local groundwater supplies as a back-up if the lake runs dry or cannot sustain diversions for domestic use; and

WHEREAS, the City Council recognizes the need to take immediate action to protect the available groundwater supplies in the City, which are part of the wider Ojai Valley aquifer, for continued use by existing users via existing water wells; and

WHEREAS, the City Council has the power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public health and safety via exercise of the police power provided to cities in Article XI, section 7 of the California Constitution and in compliance with Government Code section 36937; and

WHEREAS, adopting a new moratorium on new water wells under the City's police power to enact laws protecting public health and safety that continues the existing moratorium on new water wells adopted under different authority is necessary for the immediate preservation of the public's health and safety for the following reasons:

- 1) To ensure the continued protection of the City's limited groundwater resources for use by current users and as a critical water supply for the City and wider Ojai Valley; and
- 2) To protect current residents, growers and other users, who are wholly or partially reliant on groundwater, from the adverse consequences that can result from a rush of new pumpers permanently impacting the community's ability to obtain needed groundwater; and
- 3) To decrease the possibility that groundwater supplies will be exhausted during the drought, which is critically important now as Lake Casitas is less than 40% full and is estimated to run dry, at current consumption and conservation levels, in only five years in 2021, leaving very little time for the City and Ojai Valley to develop alternative sources of supply other than groundwater as a backup; and
- 4) 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.

WHEREAS, these issues constitute a current and immediate threat to the public health and safety within the meaning of Government Code Section 36937.

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

SECTION 1. Recitals. The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Adoption as Urgency Ordinance. This ordinance is adopted as an urgency ordinance pursuant to powers conferred on the City by California Constitution, Article XI, Section 7, and California Government Code Sections 36934 and 36937, and shall be effective immediately upon its adoption. As detailed in the recitals and 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, and safety. This urgency ordinance must be adopted by not less than a four-fifths (4/5th) vote of the City Council.

SECTION 3. Moratorium and Prohibition. This Ordinance applies to all real property in the City of Ojai. 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 the ongoing critical drought 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 water wells shall be issued and no person shall construct a new water well or modify or repair an existing water well, except as provided in Section 4, below.

SECTION 4. Exceptions to Water Well Permit Prohibitions. The water well permit prohibitions contained in this ordinance shall not apply to:

- (a) Water well permits for the repair, modification or replacement of an existing permitted water well or legal nonconforming water well involving no increase in well capacity. For purposes of this section, 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 provided that a groundwater sustainability agency has adopted and submitted to the Department of Water Resources a groundwater sustainability plan or alternative plan for the Ojai Valley Basin pursuant to Water Code Sections 10727 and 10733.6 and the Council has taken further action.

SECTION 5. Waiver of the Water Well Permit Prohibitions. A waiver to the water well and permit prohibitions of this ordinance may be granted by the City Council, after a noticed public hearing, 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 proposed groundwater well 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 in the City; 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 in the City.

SECTION 6. Environmental Determination. The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following independent reasons:

- a. The imposition of this moratorium and prohibition on permits for the construction of new water wells or modification or repair of existing water wells is statutorily exempt from review under the California Environmental Quality Act, Public Resources Code sections 21000 et seq. (“CEQA”) pursuant to Public Resources Code section 21080, subdivision (b)(4) and CEQA Guidelines Section 15269, subdivision (c). (Cal. Code Regs., tit. 14, § 15269, subd. (c).) The moratorium is a specific action necessary to mitigate the effects of an emergency. The City Council adopted this moratorium in response to the existing drought, which the Governor has repeatedly declared is an emergency, most recently on November 13, 2015, and which has resulted in the water level of Lake Casitas falling to less than 40%, necessitating the imposition of Stage III water conservation restrictions by the Casitas Municipal Water District’s Board of Directors. The moratorium is necessary to mitigate the effects of the drought on the City’s residents by preserving the limited available groundwater resources for residents and businesses with existing water service connections.

- b. Additionally, this moratorium is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section 15307. (Cal. Code Regs., tit. 14, § 15307.) This section exempts “actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.” The moratorium is also categorically exempt from review under CEQA pursuant to Guidelines Section 15308. (Cal. Code Regs., tit. 14, § 15308.) This exempts “actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.” The moratorium is adopted under the City’s police power to protect and preserve the City and Ojai Valley’s limited supplies of groundwater for current use by existing residents and community members and for availability as a critical backup water source for the City and Valley’s residents and community members as Lake Casitas continues to drain. The exceptions to the categorical exemptions under CEQA Guidelines section 15300.2 are not applicable. There are no potentially significant environmental impacts as a result of cumulative impacts because this will be a limited duration moratorium. There are no unusual circumstances present here that mean there is a reasonable possibility that the moratorium will have a significant effect on the environment, because the moratorium will not have any effect on the environment as it freezes the status quo in place, rather than permitting new water wells which will result in on-the-ground impacts and greater depletion of limited available groundwater resources. The scenic resources, hazardous waste sites, and historical resources exceptions all also do not apply because the imposition of the moratorium will not

result in any impacts upon these special status sites. Therefore, the moratorium is exempt from review under CEQA.

- c. Additionally, the imposition of the moratorium does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The moratorium has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of a freeze on the issuance of permits for groundwater wells. The adoption of this ordinance is therefore exempt from CEQA review pursuant to California Code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA Guidelines.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 8. Certification. 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.

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 by a 4/5 vote of the Ojai City Council, as provided by Government Code Section 36937, subdivision (b), and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

SECTION 10. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

CITY OF OJAI, CALIFORNIA

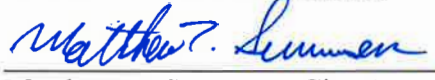


By: Paul Blatz, Mayor

ATTEST:


Cynthia Burell, City Clerk

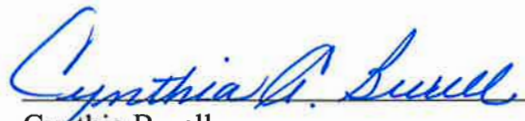
APPROVED AS TO FORM:


Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

I, Cynthia Burell, City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Ojai held on October 25, 2016 by the following vote:

AYES: BLATZ, CLAPP, HANEY, LARA, WEIRICK
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE


Cynthia Burell
City Clerk for the City of Ojai