

ORDINANCE NO. 10249 (N.S.)

AN ORDINANCE AMENDING  
THE SAN DIEGO COUNTY CODE RELATING TO  
GROUNDWATER IN BORREGO VALLEY

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

**Section 1.** The Board of Supervisors finds and determines that the County ordinance that regulates the use of groundwater should be revised to update and clarify the regulations and to require new development in the Borrego Valley to use groundwater reduction measures.

**Section 2.** Section 67.703 is amended to read as follows:

**Sec. 67.703 Definitions.**

The following words shall have the meaning provided in this section. These definitions are to be broadly interpreted and construed to promote maximum conservation and prudent management of the groundwater resources within San Diego County.

Director: The Director of Planning and Development Services.

Groundwater Investigation: A study that evaluates the geologic and hydrologic conditions and is prepared in accordance with standards approved by the Director. The study shall be prepared by a California State Registered Geologist or Registered Civil Engineer and be approved by the Director. The Director may require the study to demonstrate the adequacy of the groundwater basin to serve both the project and the entire basin if developed to the maximum density and intensity permitted by the General Plan. For residential uses, the study shall assume an annual consumptive use of 0.5 acre-feet (163,000 gallons) of water per dwelling unit. ("Consumptive use" is the amount of groundwater lost due to human use, including evaporation and transpiration (plant use).

Residual Drawdown: The difference between the initial (static) water level before a well test is conducted and the water level after recovery. Projected residual drawdown indicates an aquifer of limited extent and the long-term well yield may be lower than what is indicated in a well test.

Specific Capacity: An expression of the productivity of a well, obtained by dividing the rate of discharge of water (in gallons per minute) from the well by the drawdown (in feet) of the water level in the well.

Water Intensive Use: Any land use that requires a permit listed in Section 67.711 and is not exempt from this ordinance, and that will require more water than 20 acre-feet per year or more than 20,000 gallons per day.

Water Service Agency: Any city, mutual or municipal water district, or any other private or public agency which provides water at retail from either: (1) groundwater resources, to two or more users; or (2) imported water resources. Such water service agency must be in existence prior to the date of submittal of any project relying on service from that agency.

Well Test: The production procedure, reviewed and approved by the Director, by which water is produced from a water well and resulting water levels are monitored. If the results of the testing are inconclusive or improperly conducted, additional testing will be required. (All wells must have a valid San Diego County Health Department well permit prior to construction.)

1. Residential Well Test: A test of a well on property with zoning which permits residential use, or which is for a residential project, shall be conducted by or under the direct supervision of a California State Professional (or Registered) Geologist, who shall conduct all analysis. The Residential Well Test shall meet or exceed all of the following minimum requirements unless the Director has first approved an alternate procedure:
  - a. Well production during the Residential Well Test must be maintained at a rate of no less than three gallons per minute.
  - b. The Residential Well Test must be conducted over a period of at least 24 hours, unless after eight hours of pumping, the measured specific capacity is equal to or greater than 0.5 gallons per minute per foot of drawdown, at which time pumping can be terminated. In addition, all Residential Well Tests must produce at least two full well bore volumes of water (a bore volume is that quantity of water which is stored within the saturated portion of the drilled annulus of the well).
  - c. The analysis of the Residential Well Test must indicate that no residual drawdown is projected (taking into account minor inaccuracies inherent in collecting and analyzing well test data).
  - d. The analysis of the Residential Well Test must also indicate that the amount of drawdown predicted to occur in the well after five years of continual pumping at the rate of projected water demand, will not interfere with the continued production of sufficient water to meet the needs of the anticipated residential use(s).

2. Nonresidential Well Test: A test of a well for a nonresidential project (such as a golf course) shall be in accordance with procedures approved by the Director and may be more extensive than those applicable to a Residential Well Test.

**Section 3.** Section 67.710 is amended to read as follows:

**Sec. 67.710 Director to Enforce.**

The Director shall have the authority to enforce all the provisions of this Chapter. The Director may designate the County Groundwater Geologist as the employee responsible for implementing this Chapter, to:

1. Review and perform groundwater studies.
2. Conduct research on the groundwater resources of the County.
3. Review and make recommendations on all discretionary projects which fall under this ordinance.
4. Monitor and maintain files on the status of the resource.
5. Assist consultants, community groups, water service agencies and residents of the County in assessing groundwater concerns.
6. Identify groundwater impacted basins.
7. Prepare recommended revisions to the Groundwater Limitations Map.
8. Monitor and maintain records regarding groundwater use reduction measures described in Section 67.720.

**Section 4.** Section 67.711 is amended to read as follows:

**Sec. 67.711 Application.**

Prior to approval of any of the following discretionary land development applications for a project which proposes to use groundwater (hereinafter referred to as "Projects"), the applicant shall comply with the provisions of Article 3 below:

General Plan and Specific Plan Adoptions and Amendments

Tentative Parcel Maps

Tentative Maps

Revised Tentative Parcel Maps and Revised Tentative Maps (review shall exclude areas unaffected by the revisions proposed by the Revised Map)

Zoning Reclassifications Amending Use Regulations Applicable to Particular Property

Major Use Permits

Major Use Permit Modifications (review shall exclude areas unaffected by the proposed modifications)

Certificates of Compliance filed pursuant to San Diego County Code Section 81.616.1 or 81.616.2 (excluding condominium conversions)

Lot Line Adjustments filed pursuant to San Diego County Code Section 81.901 et seq., on property zoned to permit residential use, if the Director determines that the Lot Line Adjustment will result in a lot which would potentially worsen existing or future groundwater conditions at the maximum density and intensity permitted by the General Plan and Zoning, taking into consideration long-term groundwater sustainability, groundwater overdraft, low well yield, and well interference. If the Director makes this determination, the Lot Line Adjustment shall comply with Section 67.722, but not Sections 67.720 or 67.721.

**Section 5.** Section 67.720 is 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 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.

- A. 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 6.** Section 67.721 is amended to read as follows:

**Sec. 67.721 Groundwater Impacted Basins.**

- A. Identification and Mapping. Areas within the County which are characterized by one or more of the following groundwater problems shall be known as Groundwater Impacted Basins and shall be identified and mapped:
  1. Low yielding wells having an overall average yield of less than 3 gallons per minute.
  2. Basins with previously approved developments at a parcel size smaller than those stated in the table in paragraph A of Section 67.722 and in excess of available water resources.
  3. Declining groundwater levels and a measurable groundwater overdraft.

The Groundwater Impacted Basins shall be designated on a map known as the "Groundwater Limitations Map" which shall be adopted by the Board of Supervisors and kept on file with the Clerk of the Board of Supervisors. Prior to adding any area to said map or making any deletions from or revisions to said map, the Board of Supervisors shall hold a public hearing. Notice of such hearing shall be mailed at least 30 days in advance, to the owner (as shown on the latest equalized assessment roll) of any property proposed to be added to or deleted from said map. The Director of Planning and Development Services shall annually review said map and may recommend such revisions as the Director finds appropriate.

- B. Regulations. Any application listed in Section 67.711 for a project within a Groundwater Impacted Basin shall be accompanied by a Groundwater Investigation. In addition, a Well Test shall be performed for each lot proposed to be created by or included within the project. The application shall not be approved unless the approving authority finds that based upon the Groundwater Investigation, groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan.

**Section 7.** Section 67.750 is amended to read as follows:

**Sec. 67.750 Exemptions.**

- (a) A proposed subdivision which pursuant to the terms of Government Code Section 66424 or 66426 is exempt from the requirement to file a Tentative Map or Tentative Parcel Map is not subject to this Ordinance unless it also involves an application for a General Plan or Specific Plan adoption or amendment, a Zoning Reclassification, or a Major Use Permit or modification thereof.
- (b) The following Major Use Permits or Major Use Permit modifications are exempt from this ordinance:
- (1) Those involving the construction of agricultural and ranch support structures used in the production, storage, or processing of food, fiber, and flowers, including but not limited to roadside stands, barns, sheds, packing houses, and greenhouses, except that this exception does not apply to feed lots.
  - (2) Those involving new or expanded agricultural land uses, including but not limited to changes in commodities produced on the property, operations performed upon such commodities, and development of additional irrigated acreage on the property unless accompanied by subdivision.

This agricultural exemption does not supersede or limit the application of any law or regulation otherwise applicable to the above-listed categories of agricultural support activities including the California Environmental Quality Act. For purposes of this exemption, "agricultural and ranch support structures" do not include the commercial exportation of groundwater for purposes of resale outside the basin.

- (c) Director may grant an exemption from the requirement for a Groundwater Investigation imposed by Section 67.721 or 67.722.B, the requirement for Well Tests imposed by Section 67.721 or 67.722.C, or the requirement for minimum parcel sizes imposed by Section 67.722.A, upon a finding that existing data clearly demonstrate that the finding required by Section 67.722.B. can be made without additional study. Such data may include a recent history (minimum of five years) of groundwater withdrawals or streamflow data and other geomorphic evidence which indicates that replenishment of groundwater resources is rapid and reliable, and is controlled primarily by infiltration of streamflow rather than on-site recharge.

**Section 8.** This ordinance shall take effect 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 Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 30<sup>th</sup> day of January, 2013.



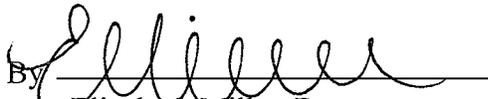
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GREG COX  
Chairman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 30<sup>th</sup> day of January, 2013.

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By   
Elizabeth Miller, Deputy



No. 10249 (N.S.)

01-30-2013 (3)