

ORDINANCE NO. 9

AN ORDINANCE OF THE OJAI BASIN GROUNDWATER MANAGEMENT AGENCY ESTABLISHING REQUIREMENTS FOR SETTING GROUNDWATER EXTRACTION CHARGES, FREQUENCY OF REPORTING AND PAYMENT, AND REPEAL OF ORDINANCE NO. 4 LEVYING GROUNDWATER EXTRACTION CHARGES.

WHEREAS, Article 1, section 101 of the Ojai Groundwater Basin Management Agency Act declares that the preservation of the groundwater within the territory of the Ojai Basin Groundwater Management Agency for the protection of agricultural, municipal and industrial uses, is in the public interest and for the common benefit of the water users within the agency; and

WHEREAS, Article 10, sections 1001-1007 of the Ojai Groundwater Basin Management Agency Act authorizes the Agency to fix a management charge for the purpose of paying for the costs of initiating, carrying on and completing any of the powers, projects and purposes for which the Agency is organized. However, the Agency may not impose the management charge after January 1, 1995; and

WHEREAS, the agency must raise sufficient funds to pay for the cost of initiating, carrying on and completing the powers, purposes and groundwater management activities described in its authorizing Act; and

WHEREAS, Article 11, section 1101 of the Ojai Groundwater Basin Management Agency Act authorizes the Agency to levy groundwater extraction charges on the extraction of groundwater by the users of groundwater extraction facilities within the boundaries of the Agency; and

WHEREAS, the Agency has adopted Ordinance No. 1, which requires the registration of groundwater extraction facilities and reporting of groundwater extractions within the boundaries of the Agency; and

WHEREAS, Ordinances 1 and 9, taken together, enable the Agency to determine water extractions accurately and to assess and collect charges and fees equitably, so that the Agency may meet its mission of preserving the quantity and quality of the Ojai Basin.

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE OJAI BASIN
GROUNDWATER MANAGEMENT AGENCY AS FOLLOWS:**

Section 1. Title

This Ordinance No. 9 shall be known and cited as “ESTABLISHING REQUIREMENTS FOR SETTING GROUNDWATER EXTRACTION CHARGES, FREQUENCY OF REPORTING AND PAYMENT, AND REPEAL OF ORDINANCE NO. 4 LEVYING GROUNDWATER EXTRACTION CHARGES ORDINANCE. ”

Section 2. Policy and Purpose

The Agency is charged with the legal responsibility of managing the groundwater resource within the boundaries of the Agency. The Agency’s mission is to preserve the quality and quantity of groundwater in the Ojai Basin in order to protect and maintain the long-term water supply for the common benefit of the water users in the basin. The Agency enacts this Groundwater Extraction Charge Ordinance as legal authority to require that every groundwater extraction facility contribute an equitable portion of the costs of running the Agency.

Section 3. Definitions

All terms, phrases and words shall have the meaning assigned to such terms, phrases and words as commonly understood or as expressly defined in the Agency’s Authorizing Act or as defined herein.

- “**Agency**” shall mean the Ojai Basin Groundwater Management Agency.
- “**Basin**” shall mean the Ojai Groundwater Basin as shown in the Department of Water Resources Bulletin No. 12, “Ventura County Investigation,” dated October 1953, to the extent included within the boundaries of the Agency, as defined in 201 of the Agency’s Authorizing Act.
- “**Board**” shall mean the Board of Directors of the Agency.
- “**County**” shall mean the county of Ventura.
- “**Dwelling unit**” shall mean a structure suitable for residential household occupancy.
- “**Extraction**” shall mean the act of obtaining groundwater from the Basin by pumping or other controlled means.
- “**Extraction facility**” shall mean any device or method for the extraction of groundwater from the Basin, including a well.

- **“Groundwater”** shall mean the water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, whether or not flowing through known and definite channels.
- **“Operator”** shall mean a person who operates a groundwater extraction facility. If 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.
- **“Public Water System”** shall mean a water system which, as defined in Section 4010.1 of the California Health and Safety Code, (i) serves 15 or more connections and provides water for residential use or (ii) regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
- **“Person”** shall mean any person, state or local governmental agency, Private Corporation, firm, partnership, individual, group of individuals or, to the extent authorized by law, any federal agency.
- **“Water flow Measuring Device”** shall mean a meter or other measuring device which is attached to an extraction facility for the purpose of measuring the quantity of water extracted by the facility.

Section 4. Computing Groundwater Extraction Charges and Frequency of Reporting and Payment

- Each operator shall calculate and pay its extraction charge on the basis of its measured extractions.
- Each operator shall complete a Groundwater Extraction Statement and file with the payment of its groundwater extraction charge to the Agency. The frequency of reporting, making payment, and the method of computing the charge shall be set by resolution of the Board.

Section 5. Payment and Reporting Due Dates

- Payment due dates and assessment periods for groundwater extractions shall be set by resolution of the Board.
- Payment of assessments received by the Agency after the due date shall be deemed delinquent and subject the operator to penalties as set forth by resolution of the Board.

Section 6. Groundwater Extraction Statement: Reporting Extractions

- Every operator who extracts groundwater from the basin shall file a completed “Groundwater Extraction Statement,” in conjunction with the payment of the required extraction charge. The completed and filed Groundwater Extraction Statement shall be on a form prepared by the Agency. Each completed and filed Groundwater Extraction Statement shall be signed under penalty of perjury by the operator of the respective extraction facility.
- The operator’s Groundwater Extraction Statement and payment of calculated fees shall be presumed accurate upon timely receipt of the Agency. For good cause, the Agency may disregard the Groundwater Extraction Statement and payment of fees and cause an investigation of the actual amount extracted by any operator for any payment period. In the event of a discrepancy between the Groundwater Extraction Statement and payment provided to the Agency the findings of the Agency shall control.
- The Agency shall make Groundwater Extraction Statement forms available to operators and the public generally by direct mail to known operators and by keeping copies available for the public at the Agency office located at 428 Bryant Circle, Suite 100, Ojai, CA 93023.
- Failure of any operator to receive a direct mailing of a Groundwater Extraction Statement form shall not relieve the operator of the obligation to file a completed Groundwater Extraction Statement and timely payment of the groundwater extraction charges set by the Agency.

Section 7. Estimated Water Demand

- Groundwater extraction facilities equipped with non-operational water flow measuring devices.
 - A Table of Average Water Demand shall be used to estimate the amount of water extracted by groundwater extraction facilities equipped with a non-operational water flow measuring device. Such Table of Average Water Demand shall be set by resolution of the Board.
 - If an extraction facility that is equipped with a non-operational water flow measuring device provides water to more than one type of use, total groundwater extraction by the facility shall be estimated as the sum of all such uses on the basis of the indices established in the Table of Average Water Demand. Water demand shall be presumed to evenly divided between the payment periods as set by Resolution of the Board.

Section 8. Extraction Charge

- The groundwater extraction charge shall be set by resolution and may be revised, from time to time, by the Board.
- Detailed recording and management of all groundwater extraction charge funds shall be required. Deposits, investments and expenditures shall be handled in accordance with generally accepted accounting principles.

Section 9. Penalties

- Any groundwater production facility operator delinquent in payment of the groundwater extraction charge shall be subject to an assessment of extraction charges based on metered use or estimated use set forth in Section 7 of this Ordinance, whichever is greater. Such penalty shall be established by resolution of the Board.
- Any operator or person who intentionally violates any provision of this Ordinance shall be guilty of an infraction and may be required to pay a fine established by resolution of the Board.
- Any operator or person who negligently or intentionally violates any provision of this Ordinance may also be civilly liable to the Agency for a penalty as set by resolution of the Board.
- 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 injunction relief is an additional right to those rights which may be provided elsewhere in this Ordinance or otherwise allowed by law.
- The Agency may petition the Superior Court to recover any sums due it under the provisions of this Ordinance.
- A groundwater extraction facility operator subject to a penalty established by the Agency may promptly appeal the penalty to the Board. Such appeal shall state fully the grounds of the appeal and all facts relied upon in the appeal, including, but not limited to, the facts causing the imposition of the penalty, any extenuating circumstances, the monetary amount owed to the Agency including penalties, and any other facts pertinent to the delinquency or violation. The Board shall make written finding of fact either granting or denying appeal.
- The penalty provisions set forth in this Ordinance shall be reviewed annually by the Board and, if deemed necessary, adjusted by resolution.

Section 10. Termination Date

This Ordinance shall remain in full force and effect until repealed by action of the Board.

Section 11. Application

The provisions of this Ordinance shall be read in conjunction with and complement all other Agency Ordinances and Resolutions and shall apply to all operators within the boundaries of the Agency.

Section 12. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance and its implementing rules and regulations are for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares and determines that it would have passed this Ordinance and its implementing rules and regulations irrespective of the fact that any one or more sections, subsection, sentences, clauses or phrases may be determined to be unconstitutional or invalid.

Section 13. Effective Date

This Ordinance was adopted on **May _____, 2015**, to be effective thirty-one (31) calendar days after its passage. Before the expiration of fifteen (15) calendar days after its passage, this Ordinance shall be published once, with the names of the members of the Board of Directors for the Agency voting for it and against it, in a newspaper of general circulation published in the County of Ventura, State of California.

Section 14. Repeal of Ordinance No. 4

This Ordinance repeals in its entirety the provisions of Ordinance No. 4 adopted April 27, 1995.

PASSED, APPROVED AND ADOPTED May 28, 2015

Jerry L. Connor
President of the Board

Attest: [Signature]
Secretary