



STATUS REPORT ON  
URGENCY ORDINANCE NO. U-1650

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**Date:** February 11, 2016

**Subject:** Status Report on Urgency Ordinance No. U-1650 Prepared Pursuant to California Government Code Section 65858(d) Regarding the Temporary Moratorium on the Acceptance, Processing, and Approval of Applications and Issuance of Permits to Multiple Family Dwelling Projects.

This Status Report on Urgency Ordinance No. U-1650 is being prepared pursuant to California Government Code Section 65858(d). The attached Draft Ordinance No. U-1652 (Attachment "A") is the Status Report as required under State law. Ordinance No. U-1652 is titled as "An Urgency Ordinance of the City Council of the City of San Fernando Extending an Interim Moratorium on the Application Filing, Processing, Approval and Issuance of Permits for Multiple-Family Dwelling Projects Through January 18, 2017".

**ATTACHMENT:**

A. Urgency Ordinance No. U-1652

**Posted at:**

- City Hall Bulletins
- City Website: [www.sfcity.org](http://www.sfcity.org)

Posted by: Fred Ramirez, Community Development Director

**URGENCY ORDINANCE NO. U-1652**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SAN FERNANDO, CALIFORNIA, EXTENDING AN  
INTERIM MORATORIUM ON THE APPLICATION FILING,  
PROCESSING, APPROVAL AND ISSUANCE OF PERMITS FOR  
MULTIPLE-FAMILY DWELLING PROJECTS THROUGH  
JANUARY 18, 2017**

**WHEREAS**, California Constitution Article XI, Section 7, enables the City of San Fernando (the “City”) to enact local planning and land use regulations; and

**WHEREAS**, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

**WHEREAS**, the City desires to ensure that residential development occurs in an orderly manner, in accordance with the goals and objectives of the General Plan; and

**WHEREAS**, pursuant to California Government Code section 65580 et seq. (Housing Elements), the Regional Housing Need Assessment (RHNA) Allocation Plan—prepared by the Southern California Association of Governments and approved by the state Department of Housing and Community Development—has identified for the City of San Fernando a housing growth need of 217 units projected from 2014 to 2021; and

**WHEREAS**, based on existing and anticipated development, the City continues to make quantifiable progress toward achieving its assigned share of housing units; and

**WHEREAS**, the City’s General Plan 2013-2021 Housing Element and 2005 San Fernando Corridors Specific Plan (the “Specific Plan”) envision, among other things, residential development potential along major commercial corridors, in Zone R-3 (Multiple Family), and near the Metrolink Station, and the City is now in the process of updating the Specific Plan and preparing an environment impact report (EIR); and

**WHEREAS**, a Sanitary Sewer Management Plan Report prepared for the City in 2013 identified the need for a System Evaluation and Capacity Assurance Plan to assess the hydraulic capacity of major sewers, and to develop and implement a sewer master plan; and in March of 2014, the City completed the *Final Report for the Sewer Master Plan*, which included goals to identify system deficiencies, needed upgrades based on current and future growth needs as well as mapping of said infrastructure, and a timeframe for developing a short and long-term Capital Improvement Program (CIP) to make said needed repairs, upgrades, and accommodate projected growth; and

**WHEREAS**, the City Public Works Department 2011 *Proposal to Increase Water and Sewer Rates* identified nitrate removal from two active water wells that draw from the Sylmar Groundwater Basin and provide the community with potable water as a reason for rate increase; and

**WHEREAS**, the 2010 City of San Fernando Urban Water Management Plan notes that the City's groundwater rights are fixed at 3,405 Acre Feet per Year (AFY); and

**WHEREAS**, the 2005 Specific Plan and the proposed 2015 Specific Plan facilitate multiple family dwelling projects that may increase water demand, which may require additional groundwater production and water purchase; and

**WHEREAS**, drought conditions in California and the statewide 25 percent water use reduction mandate for cities requires the City of San Fernando to reduce its water consumption; and

**WHEREAS**, the reliability of the City's water supply is based on capacity and condition of its infrastructure, as well as demand, which is affected by land use regulations; and

**WHEREAS**, every two years, the City prepares a Pavement Management System ("PMS") that evaluates roads and classifies their condition. The 2014 PMS rated approximately 32 percent of the City's streets at below 55 (out of 100), which is "Fair" with "moderate distress; severe weathering," and altogether identified approximately \$17.8 million in deferred street maintenance; and

**WHEREAS**, during Fiscal Year 2015-16, approximately \$2.9 million has been budgeted for road-related improvements that include design and construction for 12 streets, plus traffic, pedestrian safety, streetscape, and bicycle improvements, and aided by the City's participation in the Total Road Improvement Program utilizing Measure R Local Return Transportation funds; and

**WHEREAS**, the City's short and long-term Capital Improvements Program (CIP) foresees multi-year, multi-million dollar projects to improve roads, sidewalks and landscaping, in conjunction with water well and water main upgrades, storm drain, and sewer infrastructure—in accordance with state Water Board-required Sewer System Management Plan (SSMP) and Storm Water Pollution Prevention Plan (SWPPP)—as well as traffic safety, parks and facilities; and

**WHEREAS**, the City Council desires to study the demands of development on the City's infrastructure; and to study the potential need for additional public facilities to accommodate future development; and to consider impact fees commensurate with the demands of new development to protect the public health, safety and welfare; and

**WHEREAS**, the City Council recognizes that City Staff must analyze the data from these assessments, improvement plans, and complete the Specific Plan environmental review process (i.e., preparation of a Program Environmental Impact Report), and respond with appropriate potential regulations and mitigation measures; and

**WHEREAS**, the City seeks to continue to suspend the approval of multiple-family dwelling project to provide time to study and develop regulations, mitigation measures, and engineering and planning practices that will balance development with infrastructure capacity; and

**WHEREAS**, the City desires to acknowledge those development projects that have substantially received the approvals they require to permit construction; and

**WHEREAS**, the City Council desires to direct Community Development Department Staff and Public Works Department Staff to conduct the necessary studies and to report their findings to both the Planning and Preservation Commission and the City Council within a reasonable time; and

**WHEREAS**, Government Code section 65858 authorizes the City Council to adopt an urgency ordinance for the immediate preservation of the public health, safety, or welfare, and to prohibit a land use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning and Preservation Commission, or the Community Development Department is considering or studying or intends to study within a reasonable time; and

**WHEREAS**, on January 19, 2016, the City Council instituted a 45-day moratorium on new multiple-family dwelling projects by adopting Urgency Ordinance No. U-1650, which will expire by operation of law on March 4, 2016; and

**WHEREAS**, this Ordinance serves as the City's written report describing the measures taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. U-1650, in accordance with Government Code section 65858(d). These measures include the following:

- A. Since the adoption of Urgency Ordinance No. U-1650, City Public Works and Planning Staff have begun to research and study the condition of the City's infrastructure and to identify potential impacts to infrastructure related to new Multiple-Family Dwelling Projects under current zoning regulations and those contemplated under the proposed Corridors Specific Plan Update/TOD Overlay Zone Project.
- B. Planning Staff and the City's planning consultant have begun preparation of the Program Environmental Impact Report (Program EIR) for the San Fernando Corridors Specific Plan Update to evaluate potential environmental impacts to the City's infrastructure (i.e., sewer, water, streets, etc.) based on 20-year projections for new commercial, industrial, and residential development within the specific plan study/planning area.
- C. The Program EIR's Notice of Preparation was circulated on December 21, 2015. A Scoping Meeting was held on January 7, 2016. City staff and the consultants are conducting the baseline studies for the Program EIR. It is anticipated that a draft of

the Program EIR will be released for public review during the second quarter of 2016.

- D. In February, Public Works Staff commenced a System-Wide Infrastructure – Development Impact Fee Study to analyze impacts of development on sewer, drainage, traffic, parks, government facilities, and police. The study is expected to take four to six months to complete, followed by consideration by the City Council.
- E. The Closed-Circuit Television (CCTV) inspection and cleaning of the City’s sewer system has been completed and will be used to develop a list of point repairs and replacement of pipe segments. This year the CCTV data will be integrated into the City’s Geographic Information System (GIS).
- F. The City Council has approved the purchase of a wastewater jetter vehicle to undertake maintenance and emergency removal of blockages in the wastewater system.
- G. This month, the City will initiate wet weather flow monitoring equipment at key locations to identify water infiltration (due to cracked pipes or manholes) and possible capacity issues.
- H. This month, the City will install overflow sensor equipment at key locations to provide alert notifications to prevent wastewater overflows.
- I. The City plans to install new pipe segments (both water and sewer) in conjunction with the resurfacing of 12 street segments.
- J. The City Council has approved the purchase of a water distribution vehicle to undertake maintenance and system improvements to water pipelines.
- K. Staff have commenced preparation of the 2015 Urban Water Management Plan as an update to the 2010 Urban Water Management Plan.
- L. The City will resurface 12 street segments. Six are planned for April 2016, and the rest will start in summer 2016.
- M. The City’s participation in the Total Road Improvement Program is expected to be approved this spring 2016 and will expedite needed improvements to road and traffic infrastructure.

WHEREAS, State law authorizes the extension of an urgency ordinance for 10 months and 15 days.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.**     Recitals. The above recitals are true and correct and incorporated herein by reference.

**SECTION 2.**     Definition. The term “Dwelling, multiple-family” shall be as defined in Zoning Ordinance section 106-6.

**SECTION 3.**     Moratorium.

A.     The City Council declares a moratorium on the application filing, processing, approval and issuance of permits for any multiple-family dwelling project.

B.     The moratorium shall be effective for the 10-month and 15-day period commencing March 3, 2016 and ending January 18, 2017, or until earlier termination by the City Council. The moratorium may be subsequently extended for one year in accordance with Government Code section 65858.

**SECTION 4.**     Moratorium Exemption. The moratorium shall not apply to any project that has secured at least one of the following approvals prior to the effective date of this ordinance:

(i)     Site Plan Review.

(ii)    Zone change.

**SECTION 5.**     Hardship Exemption.

A.     The City Council has the authority but no obligation to grant exemptions from the provisions of this Urgency Ordinance where it finds that strict adherence to the moratorium would result in extreme hardship to either the developer or property owner. The City Council may consider any factor relevant to this determination. A finding that the moratorium deprives the owner of all economically viable use of the property shall constitute extreme hardship.

B.     Written requests for hardship exemptions shall be filed with the Community Development Department and shall state the grounds for the exemption and provide supporting documentation. The City Council is not required to consider the request any sooner than two weeks after it was filed. The City Council shall approve, approve with conditions, or deny the request by resolution.

**SECTION 6.**     Urgency Findings. This Urgency Ordinance is adopted as an urgency measure pursuant to Government Code Section 65858 and is justified based upon the recitals herein, all evidence in the record, and on the following findings:

**A. There is a current and immediate threat to the public health, safety, or welfare, and the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare:**

A report to the City Council by the Public Works Director, dated August 3, 2015, details the need to inspect 74 percent of the City's sanitary sewer system (approximately 164,000 feet in length) with remote-controlled cameras, to locate damaged pipes and generally to assess the system's condition. The City's sewer system provides wastewater service to approximately 25,000 people, in addition to many commercial and industrial customers. The City's Capital Improvements Program (CIP) has budgeted nearly \$1.4 million for sewer capacity improvements in accordance with the state Water Board-required Sewer System Management Plan (SSMP), which identified \$10.7 million in sewer maintenance and improvement costs.

In addition, the CIP foresees projects to improve roads, sidewalks and landscaping, in conjunction with water, sewer, and storm drain infrastructure, in accordance with the state Water Board-required Storm Water Pollution Prevention Plan (SWPPP), as well as traffic safety, parks and facilities.

Multiple factors have affected the City's sewer infrastructure including decades of deferred maintenance, the need to implement a Fats, Oils, and Greases Control Plan, and the need to design and upgrade the existing system to meet deficient capacity and accommodate growth. Insufficient sewer capacity can cause sewage backups into homes, and sewage poses a significant threat to human health. The City must complete its system-wide inspection, assessment, and any required sewer capacity improvements before the approval of more multiple family dwelling projects places further demands on the system. Approving new multi-unit projects before this work is accomplished would create greater uncertainty as it relates to project related impacts to our sewer system, and as such presents a current and immediate threat to health and safety.

Multiple factors also affect the City's continued access to sufficient water supply which comes from local groundwater and imported water. Reliability of the City's water supply is based on the capacity and condition of infrastructure. Such conditions are affected by, among other things: groundwater contaminants, water well maintenance, and years of deferred maintenance, in general. Furthermore, reliable water supply is impacted by seasonal demand affected by drought, and by population growth under land use regulations, including those in the Specific Plan and proposed amendments.

Deferred maintenance of the City's street infrastructure have resulted in repairs totaling approximately \$17.8 million. The average citywide roadway conditions are rated Good with slight distress and weathering, while 32 percent of streets have an overall pavement condition rating of below 55, which is Fair with moderate distress and/or severe weathering. Hence, any further demand on the City's roadways from new multiple family dwelling projects requires further analysis, and development and consideration of mitigation measures, impact fees, and short and long-term planning to maintain and reduce deterioration of the City's roadways.

The City Council finds that the establishment of new multiple family dwelling projects within the City, before the City has completed its analysis of the current state of the City's infrastructure, presents a current and immediate threat to health and safety.

The approval of additional permits or other land use entitlement for new multiple-family dwelling projects would result in that threat to public health, safety, or welfare because, without the benefit of new regulations and engineering and planning practices in place (e.g. impact fees and mitigation measures), the demands of the new development threaten to harm or overwhelm the City's infrastructure. This includes roads, traffic controls, water, sewer, and storm drains.

**B. The continued approval of the development of multiple-family housing projects would have a specific, adverse impact upon the public health or safety:**

The continued approval of the development of multiple-family dwelling projects have the potential to strain public safety, schools, roads, water and sewers in the City in the absence of adequate analysis of the state of the City's infrastructure and need for additional public facilities. The demands of new development threaten to harm or overwhelm the City's infrastructure. This includes roads, traffic controls, water, sewer, and storm drains, which are or will be improved as part of the CIP.

Insufficient sewer capacity can cause sewage backups into homes, and sewage poses a significant threat to human health. In addition, insufficient water supply may result in lack of emergency water services to fight fires and limits citywide access to potable water for residential, commercial and industrial uses.

Overall infrastructure capacity may be further exacerbated by new approvals of multiple-family dwelling projects before the City has completed its assessment and repair of the sewer, water, and street systems and can implement new development impact fees, and improve standards that mitigate impacts on these types of infrastructure.

**C. This interim moratorium is necessary to mitigate or avoid the specific, adverse impact identified above:**

The City Council finds that a temporary moratorium on the application filing, processing, approval and issuance of permits for multiple-family dwelling projects is necessary to allow the City sufficient time to study and develop comprehensive regulations, mitigation measures, and engineering and planning practices that will balance development with infrastructure capacity and other public facilities.

When a city prepares to adopt new development regulations, there is the risk of a rush of new development applications in an attempt to beat the new regulations. The moratorium on multiple-family dwelling project permits, while the City studies and updates its current regulations, would prevent such applications from defeating the purpose of any new regulations the City may consider.



**D. There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified above as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim moratorium:**

This moratorium will afford the City a reasonable amount of time to complete its analysis of the state of the City's infrastructure, determine the need for additional public facilities to accommodate future development, and develop appropriate potential regulations, mitigation measures, and impact fees commensurate with the demands of the new development.

Faced with the choice of allowing new multiple-family dwelling projects to proceed without the benefit of this vital analysis, or suspending such approvals for the term of this moratorium, the City finds that only the proposed suspension will mitigate or avoid the specific, adverse impacts identified in the findings above. Accordingly, the City Council finds that there is no feasible alternative to this interim moratorium.

**SECTION 7.** CEQA. This Urgency Ordinance is exempt from the California Environmental Quality Act ("CEQA") based on the following:

A. This Urgency Ordinance is not a "project" within the meaning of Section 15378 of the CEQA Guidelines as it has no potential for resulting in a physical change in the environment, either directly or indirectly.

B. This Urgency Ordinance is categorically exempt from CEQA under Section 15306 of the CEQA Guidelines, as it provides for basic data collection and research regarding the City's infrastructure and development regulations, and is limited to information gathering leading to an action which the City has not yet approved or funded.

C. This Urgency Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines, as it is a regulatory action by the City and authorized by the Zoning Ordinance and Government Code Section 65858 to assure the maintenance and protection of the environment and adoption of contemplated legislation, regulation, and policies.

D. This Urgency Ordinance is not subject to CEQA under the general rule set forth in Section 15061(b)(3) of the CEQA Guidelines that CEQA only applies to projects which have the potential for causing a significant effect on the environment. For the reasons described above, it can be seen with certainty that there is no possibility that this Urgency Ordinance will have a significant effect on the environment.

**SECTION 8.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

**SECTION 9.** Effective Date. Effective Date. If adopted by at least four-fifths vote of the City Council, this Urgency Ordinance shall be effective commencing March 3, 2016.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of San Fernando at a special meeting on this 22nd day of February, 2016.

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Joel Fajardo, Mayor

**ATTEST:**

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Elena G. Chávez, City Clerk

**APPROVED AS TO FORM:**

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Rick R. Olivarez, City Attorney

**STATE OF CALIFORNIA** )  
**COUNTY OF LOS ANGELES** ) **SS.**  
**CITY OF SAN FERNANDO** )

I, ELENA CHÁVEZ, City Clerk of the City of San Fernando, do hereby certify that the foregoing Ordinance was adopted at a special meeting of the City Council held on the 22nd day of February, 2016, and was carried by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Elena G. Chávez, City Clerk