

CITY OF OJAI
ORDINANCE NO. 900

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OJAI, CALIFORNIA, AMENDING OJAI MUNICIPAL
CODE SECTION §10-2.405 "PROTECTION AND
ENHANCEMENT OF SOLAR ACCESS" TO ADJUST THE
SOLAR BUILDING HEIGHT AND SETBACK
REQUIREMENTS AND FINDING THAT THE ADOPTION
OF THIS AMENDMENT IS EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, it is the policy of the City to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems; and

WHEREAS, in 2014 the City adopted Ojai Municipal Code section 10-2.405, titled "Protection and Enhancement of Solar Access" ("Ordinance"), which sets height limitations and setback requirements in residential zones to insure that new construction or alterations to existing residential structures do not adversely impact the potential for solar access to adjacent parcels; and

WHEREAS, as directed by the City Council, the City's Planning Staff has been applying guidelines adopted by the City of Santa Barbara ("Guidelines"), modified to reflect the Ojai Code, during the review and plan checking of new and modified residential structures to implement the Ordinance; and

WHEREAS, the Guidelines differ from the Ordinance in that the Guidelines apply a 30-degree angle to help determine the proper building height as well as the setback requirement from the adjacent property, rather than the Ordinance's 58% setback standard; and

WHEREAS, the City's Planning Staff believes substituting the 30-degree angle rather than the 58% standard would simplify the application of the Ordinance, while still protecting solar access; and

WHEREAS, on September 11, 2018, the City Council directed the City's Planning Staff and the City Attorney to return to the Planning Commission and City Council with a zoning ordinance amendment to adjust the solar building height and setback requirements; and

WHEREAS, on November 7, 2018, the Planning Commission held noticed public hearings regarding the zoning code amendment and environmental determination and, notice of said hearing, including the proposed CEQA exemption determination was published in the Ojai Valley News at least 10 days prior to the public hearing; and

WHEREAS, on November 7, 2018, the Planning Commission received and considered all public testimony, documentary evidence and staff recommendations submitted at the public hearings, and recommended adoption of both the text amendment and the environmental determination by the City Council, and

WHEREAS, on July 9, 2019, the City Council finds the proposed text amendment is consistent with and necessary to carry out the policies of the City's adopted General Plan; and

WHEREAS, the proposed text amendment does not authorize any land uses that will adversely affect the public health, safety, or welfare, and the amendments maintain existing protections in the Ojai Municipal Code against the maintenance of any land use that constitutes a public nuisance.

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. Text Amendment. Ojai Municipal Code section 10-2.405 is hereby amended to read as follows, with additions marked by underlined text and deletions marked by ~~struck through~~ text:

Section 10-2.405. Protection and Enhancement of Solar Access.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

- (1) Base elevation. The elevation of the highest point of contact of a structure with the adjacent ground. For the purposes of this determination, all fences, covered and uncovered walkways, driveways, patio covers and other similar elements shall be considered separate structures.
- (2) Northerly lot line. Any lot line, of which there may be more than one per lot, that forms a generally north facing boundary of a lot and has a bearing greater than or equal to forty (40) degrees from either true north or true south. For curved lot lines, the bearing of the lot line at any point shall be the bearing of the tangent to the curve at that point.
- (3) Plan view. A plot plan of the parcel which shows the horizontal dimensions of a parcel and each structure on the parcel.
- (4) Residential zone. The zones described in Section 10-2.402.
- (5) Shadow plan. A plot plan which shows the extent of shading caused by a proposed structure and is in compliance with the rules and regulations approved pursuant to subsection (d).

(b) Height limitation. The maximum elevation of each point on a structure in a residential zone as measured from the base elevation shall not exceed the sum of: (1) eighteen (18') feet in an R-3 and R-S zone or twelve (12') feet in all other residential zones; and (2) ~~fifty-eight (58%) percent of the~~

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~~shortest distance from that point to~~ the additional height allowed above the base height by a line starting at the top of the base height allowance and drawn 30 degrees from horizontal toward the structure at a point directly over the nearest northerly lot line as measured horizontally on the plan view of the structure. Any height limitation imposed by this section shall be in addition to any other height limitation imposed in Section 10-2.404, such that the more restrictive height limitation shall apply except as provided in subsection (c), Exemptions.

(c) Exemptions. The following shall be exempt from the height limitations of subsection (b):

- (1) Any portion of a structure in existence, for which a valid building permit was issued prior to January 1, 2015.
- (2) Any portion of a structure which received planning approval prior to January 1, 2015.
- (3) Any flagpole, antenna, ornamental spire, chimney, or other building element less than four (4') feet long each horizontal dimension.
- (4) Any utility pole and line.
- (5) Any portion of a structure for which a shadow plan is prepared and submitted by the applicant demonstrating that shadows cast by the portion of the structure at 9:00 a.m., noon, and 3:00 p.m. Pacific Standard Time on December 21st will:
 - (A) Not exceed the boundaries of a simultaneous shadow cast by a legally existing structure, or by an hill or other topographical feature other than trees of other vegetation; or
 - (B) Not shade that portion of any adjacent residentially-zoned lot which is occupied by a dwelling or covered parking area or which could legally and without modification of the required setbacks be occupied in the future by a dwelling or covered parking area.
- (6) Any single-story residential building whose base elevation is less than fifteen (15) feet.
- (7) Any residential building in a neighborhood for which a neighborhood plan or specific plan has been approved, if that neighborhood plan or specific plan includes solar access provisions specific to that neighborhood.
- (8) Any residential building on a lot exceeding twenty thousand (20,000) square feet for which the Planning Commission has granted a CUP granting greater heights after making the following findings:
 - (A) The building will not shade that portion of any adjacent residentially-zoned lot which is occupied by a dwelling; and
 - (B) The characteristics of the adjacent residentially zoned lot or lots to the north are such that solar access for future dwellings is not unreasonably limited.

(d) Rules and regulations.

- (1) The City Council may, by resolution, promulgate rules and regulations for the administration and interpretation of this section.
- (2) The City Council may, by resolution, promulgate rules and regulations for modification of the solar access height limitations where the modification is necessary to prevent unreasonable restriction.

SECTION 3. 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 proposed text amendment is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15301 of the CEQA Guidelines and is also exempt from review because it does not meet the definition of a project under CEQA Guidelines sections 15002(j)(1) and 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the Ordinance have no potential for resulting in physical changes in the environment because it consists of changes in the standards governing height limitations and setback requirements for new and existing residential properties and does not directly or indirectly approve any applications for particular projects. Any particular proposed project will be required to obtain a City development permit and undergo appropriate review under CEQA.

SECTION 4. 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 5. 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 6. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937, shall supersede any conflicting provision of any City of Ojai ordinance, and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

CITY OF OJAI, CALIFORNIA

By



John F. Johnston, Mayor

7-12-19

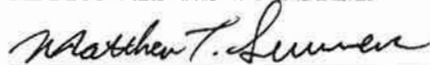
Date signed

ATTEST:



Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:




Matthew T. Summers, City Attorney

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

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on June 25, 2019 and adopted at a regular meeting held on July 9, 2019 by the following vote:

AYES: Blatz, Francina, Haney, Johnston, Weirick
NOES: None
ABSTAIN: None
ABSENT: None



Gail Davis
Deputy City Clerk for the City of Ojai