

CITY OF OJAI
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI AMENDING THE CITY OF OJAI MUNICIPAL CODE TO DELETE LOCAL AMENDMENTS TO THE ENERGY CODE AND ADOPT A NEW CHAPTER 9.17 IN THE OJAI MUNICIPAL CODE TO BE KNOWN AS THE OJAI GREENHOUSE GAS REDUCTION CODE ORDINANCE

WHEREAS, the urgency and magnitude of the climate emergency necessitates that Ojai must reduce greenhouse gas emissions and move swiftly toward a zero-carbon economy;

WHEREAS, the solution to the climate crisis is to dramatically reduce the consumption of energy;

WHEREAS, scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change;

WHEREAS, the City Council has declared a Climate Emergency, recognizing that rapid, far-reaching and unprecedented changes are required in all aspects of society to limit global warming, including the prompt phasing out of natural gas in buildings;

WHEREAS, according to the National Oceanic and Atmospheric Administration (NOAA), the average temperature in Ventura County has risen 4.7°F, which makes it the fastest warming county in the contiguous U.S.;

WHEREAS, Ojai is already experiencing the effects of human-caused climate change, including aridification of our local landscapes which worsens extended drought conditions, and more frequent and severe heat waves, all of which increase wildfire risk and diminish water supplies;

WHEREAS, the City set 100% renewable energy as the default electricity supply with the Clean Power Alliance and as such, a vast majority of residents and businesses are using clean energy, thereby eliminating their electricity-related emissions;

WHEREAS, the City is located in an area at risk of major earthquakes, which could damage gas infrastructure in the ground, and in and around buildings, thereby causing explosions or fire;

WHEREAS, this ordinance is also reasonably necessary because of health and safety concerns, as the use of combustion equipment releases harmful pollutants into the air that

increase the risk of asthma and other health conditions associated with poor indoor and outdoor air quality;

WHEREAS, buildings in Ojai account for over half of greenhouse gas emissions—more than any other sector in the city;

WHEREAS, as a critical step to reducing emissions in buildings, the City must ensure new buildings or units that are created to leverage use of clean energy rather than fossil fuels;

WHEREAS, the use of clean energy rather than fossil fuels benefits the health, welfare, and resiliency of the City of Ojai and its residents and community members;

WHEREAS, on December 13, 2022, the City Council of the City of Ojai adopted Ordinance No. 935, adopting the 2022 California Energy Code, together with the other provisions of the 2022 California Building Code, maintaining the same local City amendments as adopted by Ordinance Nos. 911 and 918; and

WHEREAS, the City desires to amend the 2022 California Energy Code as locally adopted through Article 10 of Chapter 1 of Title 9 of the Ojai Municipal Code to replace the existing code provisions requiring all-electric buildings in certain situations with the new Chapter 9.17 prohibiting natural gas infrastructure in newly constructed buildings.

NOW, THEREFORE, BE IT ORDAINED, that the City Council of the City of Ojai ordains as follows:

SECTION 1 – Code Amendment – Ojai Municipal Code section 9.1.1001 is repealed.

SECTION 2 – Code Amendment – Ojai Municipal Code section 9.1.1002 is renumbered to be Ojai Municipal Code section 9.1.1001.

SECTION 3 – Code Amendment – Ojai Municipal Code section 9.1.1003 is repealed.

SECTION 4 – Code Amendment – Ojai Municipal Code section 9.1.1004 is repealed.

SECTION 5 – Code Amendment – Ojai Municipal Code section 9.1.1005 is repealed.

SECTION 6 – Code Amendment – Ojai Municipal Code section 9.1.1006 is repealed.

SECTION 7 – Code Amendment – Ojai Municipal Code section 9.1.1007 is repealed.

SECTION 8 – Code Amendment – Ojai Municipal Code section 9.1.1008 is repealed.

SECTION 9 – Code Amendment – Ojai Municipal Code section 9.1.1009 is repealed.

SECTION 10 – Code Amendment – Ojai Municipal Code section 9.1.10010 is repealed.

SECTION 11 – Code Amendment – A New Chapter 9.17 is added to the Ojai Municipal Code to read as follows:

Chapter 9.17 PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS AND CERTAIN NEW RESIDENTIAL UNITS

Section 9-17.01- Purpose

The purpose of this chapter is to reduce greenhouse gas emissions and improve air quality by prohibiting natural gas infrastructure, appliances and equipment in and around newly constructed buildings and certain newly built residential units.

The City Council finds that:

- (a) In 2016, the Paris Climate Agreement committed national governments to pursue efforts to limit temperature rises to 1.5 degrees Celsius. In 2018, the Intergovernmental Panel on Climate Change (IPCC) issued a special report on the impacts of global warming and the need to significantly reduce global greenhouse gas emissions well before 2030 to reduce the most detrimental impacts to ecosystems and to human health.
- (b) In 2018, the United States’ Fourth National Climate Assessment made clear that climate change will wreak havoc across the United States, and that the current pace and scale of national climate action are not sufficient to avert substantial damage to the environment, human health, and economy. The direct and indirect impacts of climate change will disproportionately affect communities least able to prepare for, cope with, and recover from those impacts. Those communities include communities of color, low income communities, and other vulnerable populations.
- (c) The City of Ojai and the State of California are already suffering the effects of climate change in the form of droughts, air pollution, extreme heat, frequent wildfires, flooding, and other climate-driven adverse events.

Section 9-17.02 - Applicability

- (a) The provisions of this chapter shall apply to all projects defined below as a “covered project.”
- (b) The requirements of this chapter shall not apply to the use of propane tank appliances.
- (c) This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system as a condition of any City permit or approval.

Section 9-17.03 - Definitions

- (a) “Natural gas infrastructure” is natural gas piping into, within, or in connection with a building or within the property lines of a parcel.
- (b) “Covered project” means a newly-constructed building and all related outbuildings and accessory structures and equipment, including but not limited to pool heaters, outdoor fire places/pits, and outdoor cooking facilities, for which one or more building permits, including mechanical, electrical, or plumbing permits, are required for construction under the Ojai Municipal Code or applicable law. Covered project also includes any new residential unit, including any new accessory dwelling unit or junior accessory dwelling unit, except for accessory dwelling units approved via the compliance program per Ojai Municipal Code section 10-2.1709, subdivision (j).

Section 9-17.04 – Prohibition of Natural Gas Infrastructure

All covered projects shall be built with no natural gas infrastructure, appliances, or equipment. Any subsequent remodel or additions to a building issued a certificate of occupancy or equivalent final approval by the Building Official on or after January 1, 2021 shall be subject to this chapter. Except for remodels or additions creating new residential units, this chapter does not apply to any remodels or additions to existing buildings issued a certificate of occupancy or equivalent final approval before January 1, 2021 and to restaurants, as defined in Section 5-13.101(b).

Section 9-17.05 - Administrative Procedures

The procedures for compliance with the provisions of this chapter shall include, but not be limited to the following:

- (a) Planning Applications: If a discretionary planning application, including, but not limited to, a design review permit or conditional use permit, is required for a covered project, applicants must show that the covered project will satisfy the requirements of this chapter, as part of the application and approval process for the design review permit and/or conditional use permit, to the reasonable satisfaction of the Building Official. If an applicant is seeking an exemption from the requirements of this chapter, the applicant must identify any anticipated infeasibility in achieving compliance per Section 9-17.06 regarding exemptions.
- (b) Building plan check review: Upon submittal of an application for a building permit, building plans for any covered projects shall demonstrate that the projects will satisfy the requirements of this chapter to the satisfaction of the Building Official.
- (c) Final building inspection: Prior to final building inspection and occupancy for any covered project, evidence that project construction has met the requirements in this chapter shall be provided to the satisfaction of the Building Official. The Building Official shall review the documentation submitted by the applicant, and determine whether the project meets the requirements of this chapter. If the Building Official determines that the applicant has met these requirements, the final building inspection may proceed.

(d) Conflict with other laws: The provisions of this chapter are intended to be in addition to and not in conflict with other laws, regulations and ordinances relating to building construction and site development. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any Federal or State law. Any and all greenhouse gas reduction activities adopted and implemented under this Ordinance are intended to be complementary and nonduplicative of measures required to be adopted by any State or Federal agency under State or Federal law. Nothing in this Ordinance shall relieve any person, entity, including any City Department or City Official of compliance with other applicable Federal, State, or local laws or regulations, including Federal or State air and water quality requirements, and other requirements for protecting public health or the environment

(e) Upon the recommendation of the Building Official, the City Council may adopt additional regulations to implement the purposes of this Chapter.

Section 9-17.06 –Exemptions

(a) If an applicant for a covered project believes that circumstances exist that make it infeasible to meet the requirements of this chapter, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show infeasibility.

(1) Application: The applicant shall identify in writing the circumstances that make it infeasible for the covered project to comply with this chapter. The applicant shall indicate the maximum threshold of compliance they believe is feasible for the project and the circumstances that make it infeasible for the covered project to fully comply with the requirements of this chapter. Circumstances that constitute infeasibility include, but are not limited to, the following:

- a. It is not physically or technically feasible to comply with the permit criteria outlined in this chapter. Financial considerations shall not be a basis for determination of physical or technical infeasibility.
- b. There is a conflict with any other applicable City regulations, such as those requiring historic resources preservation.
- c. There is a lack of commercially available materials and technologies to comply with the requirements of this chapter.
- d. Applying the requirements of this chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property.
- e. Compliance with this ordinance may be infeasible only if there is no prescriptive option for compliance. Proposal to install a technology, system, or design not allowed under this chapter does not demonstrate infeasibility where compliant technologies, systems, or designs are available.

(2) Granting of exemption. If the Community Development Director determines that it is infeasible for the applicant to meet the requirements of this chapter, the Community Development Director may grant the exemption, subject to appeal to the Planning

Commission and City Council.

(3) Denial of exemption: If the Community Development Director determines that it is feasible, as applicable, for the applicant to meet the requirements of this chapter, the request for an exemption shall be denied and the applicant shall be notified of the decision in writing. The covered project shall be modified to comply with the requirements in this chapter.

(4) Appeal: The determination of the Community Development Director regarding the granting or denial of an exemption or compliance with any other provision of this chapter may be appealed. An appeal of a determination of the Community Development Director shall be filed in writing to the Planning Commission and processed, together with possible further appeal to the City Council, in accordance with the provisions of Article 30 - Appeals of Chapter 2 of Title 10 of this Code. The Planning Commission and City Council shall review the appeal based solely on whether the project meets the criteria and definition of infeasibility.

Section 9-17.07 - Violations

Violations of the requirements of this Chapter shall be considered an infraction, subject to all applicable remedies under this Code and applicable law. Violations shall be punishable by the sanctions prescribed in Chapter 2 of Title 1 of this Code, including, but not limited to, the penalties prescribed for an infraction in Section 1-2.03. Violations of this Chapter shall be further be subject to citations under Section 1-5.03, administrative remedies under Chapter 6 of Title 1, and all lawful remedies prescribed in section 9-1.205.

SECTION 12: PERIODIC REVIEW

The Community Development Department shall review the requirements of this Ordinance every 18 months for ongoing consistency with the California Energy Commission regulations under Title 24 of the California Code of Regulations and the Energy Commission's mid-cycle amendments and triennial code adoption cycle and make a report and recommendation to the City Council.

SECTION 13: SEVERABILITY

If any section, subsection, sentence, clause or phrase of the provisions depicted in this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions adopted under this Ordinance. The City Council of the City of Ojai hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof shall be declared invalid.

SECTION 14: CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Ojai finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under California Code of Regulations, Title

14, § 15061(b)(3) and § 15307 and 15308, as an ordinance adopted to protect natural resources and the environment by reducing the impacts of climate change and unrestricted greenhouse gas emissions upon the local and global climate and by reducing the adverse air quality impacts upon the City and Ojai Valley that stem from natural gas extraction and burning in residential and non-residential buildings.

SECTION 15. CERTIFICATION

The City Clerk shall cause this Ordinance to be published as required by law, 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 16. 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 _____

Betsy Stix, Mayor

ATTEST:

Weston Montgomery, Interim Deputy City Clerk

APPROVED AS TO FORM:

Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)

COUNTY OF VENTURA)

CITY OF OJAI)

I, Weston Montgomery, Interim 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 _____ and adopted at a regular meeting held on _____ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Weston Montgomery, Interim Deputy City Clerk