

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI AMENDING THE CITY OF OJAI MUNICIPAL CODE TO AMEND THE 2019 CALIFORNIA ENERGY CODE AS LOCALLY ADOPTED THROUGH ARTICLE 10 OF CHAPTER 1 OF TITLE 9 OF THE OJAI MUNICIPAL CODE REQUIRING ELECTRIC FACILITIES FOR NEW CONSTRUCTION RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS

**SECTION 1. FINDINGS**

**WHEREAS**, the California Building Standards Code, Title 24 of the California Code of Regulations, is updated every three years by the California Energy Commission (CEC) and the California Building Standards Commission (CBSC), and the most recent edition was published July 1, 2019, and is effective throughout California January 1, 2020;

**WHEREAS**, Part 6 of Title 24, called the California Energy Code, establishes energy standards for all new buildings constructed in California;

**WHEREAS**, in addition to enforcing the Title 24 standards, local jurisdictions are authorized by Health & Safety Code sections 18941.5, 17958.5, and 17958.7 to adopt local ordinances that change or are more restrictive than the minimum standards defined by Title 24 when deemed reasonably necessary because of local climatic, geologic, or topographic conditions;

**WHEREAS**, the City of Ojai makes the following finding of local climatic, geologic, or topographic conditions that support the adoption of more restrictive standards than those found in the 2019 Energy Code:

- (1) Climatic conditions: climatic conditions in and around the City of Ojai require local modifications to Title 24 of the California Code of Regulations.
  - Seasonal climatic conditions in the late summer and fall create severe fire hazards to the public health and welfare.
  - Hot and dry weather results in wild land fires in and around the jurisdiction.
  - The jurisdiction is at risk of/experiencing the effects of higher intensity storms, which put at risk the jurisdiction's homes, businesses, public facilities, roads, and highways.
  - Reducing GHG emissions associated with natural gas is necessary to reduce the jurisdiction's contribution to climate change, which is causing the local climatic conditions.
  
- (2) Geologic conditions: geologic conditions in and around the City of Ojai require local modifications to Title 24 of the California Code of Regulations. Examples include:
  - The jurisdiction is prone to seismic activity, including increased risk of earthquakes, due to its near proximity to several faults, including the Lion Ridge fault, Mission Ridge fault system, and the larger San Andreas fault. As a result, the jurisdiction experiences an increased risk of fires caused by seismic activity. Reducing the reliance on natural gas in new construction will decrease the risk of fires caused when gas lines rupture or break in seismic-related fires.

- (3) Topographic conditions: the City of Ojai’s topography creates conditions that require local modifications to Title 24 of the California Code of Regulations. Examples include:
- The jurisdiction is located in a coastal valley, surrounded by hillsides, with limited road access both into and out of the valley, which makes timely response by fire suppression vehicles difficult.
  - The jurisdiction is subject to risk of flooding.
  - The jurisdiction is located in an area that is partially susceptible to liquefaction during a major earthquake.

**WHEREAS**, local governments may adopt energy conservation or energy insulation standards that differ from the California Energy Code with California Energy Commission approval, provided that local governments demonstrate, pursuant to Public Resources Code section 25402.1(h)(2) that the requirements of their proposed standards are cost effective and do not result in buildings that consume more energy than is permitted by Title 24;

**WHEREAS**, the City of Ojai hereby determines that the revised energy standards contained herein are cost effective, based upon the findings of the study conducted by the California Energy Codes & Standards and the City Council’s determination that an all-electric standard for residential and non-residential buildings will lead to lower costs of operations and lower external costs imposed on the wider community from natural gas extraction, transportation, and burning; and

**WHEREAS**, electrification enhances the public health and welfare by promoting the environmental and economic health of the City of Ojai through the design, construction, maintenance, operation and deconstruction of buildings and sites. The provisions of this Ordinance are designed to achieve the following goals:

- a. Eliminate the greenhouse gas emission that result from transporting and combusting natural gas in new residential and non-residential buildings;
- b. Eliminate fire and other dangers associated with transporting natural gas;
- c. Lower the cost of building new buildings; and
- d. Eliminate the indoor air quality impacts of natural gas combustion in new buildings.

**WHEREAS**, the amendments contained herein will require newly constructed buildings to meet the energy standards contained in the 2019 Edition of the Title 24 Energy Code, and therefore will not result in buildings that consume more energy than is permitted by Title 24;

**WHEREAS**, the amendments contained herein will be enacted as local amendments to the 2019 California Energy Code.

**SECTION 2. AMENDING TITLE 9, CHAPTER 1, ARTICLE 10 OF OJAI MUNICIPAL CODE ADOPTING AND AMENDING THE CALIFORNIA ENERGY CODE FOR LOW RISE RESIDENTIAL AND NON-RESIDENTIAL 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, Title 9, Chapter 1, Article 10, California Energy Code, is amended to read as follows:

**Section 9-1.1001 - Purpose**

The purpose of this chapter is to modify the applicable measures of the 2019 state Energy Code (Title 24, Part 6) of the California Code of Regulations that apply to low-rise residential buildings, and to enhance long-term public health and welfare by contributing to the overall reduction of greenhouse gas emissions and the reduction of emissions associated with natural gas transport and combustion by requiring that all new low-rise residential buildings be constructed as all-electric buildings. The energy standard provisions referenced in this chapter are designed to achieve the following objectives:

- (1) Reduce consumption of natural gas in the City of Ojai;
- (2) Reduce the risks associated with transporting natural gas in the City of Ojai;
- (3) Reduce greenhouse gas emissions associated with use of natural gas;
- (4) Lower the cost of building new residential and non-residential buildings;
- (5) Improve indoor air quality and occupant health.
- (6) Ensure that new residential construction meets the efficiency standards for electric construction set forth in the state energy codes.

**Section 9-1.1002 – Adoption.**

That certain Code known as the “2019 California Energy Code,” most recent edition, promulgated and published by the California Building Standards Commission, is hereby adopted and enacted as the primary Code of the City and made a part of this chapter by reference with the same force and effect as if fully set forth in this chapter, subject to the amendments set forth in this article. Said Code shall be referred to in this article as the California Energy Code.

**Section 9-1.1003- California Energy Code – Local Amendments Applicable to Low-Rise Residential Buildings**

As stated in Section 9-1.1002, the City of Ojai has adopted the 2019 edition of the California Energy Code codified in Part 6 of Title 24 of the California Code of Regulations, as amended by the changes, additions, and deletions set forth in this chapter and in other chapters of this title.

**Section 9-1.1004 - Applicability.**

The provisions of this chapter shall apply to all construction projects defined below as a “covered project.”

**Section 9-1.1005 - Definitions.**

For the purposes of interpreting this chapter, the following terms are defined as follows. When the definitions below differ from those contained elsewhere in this title, the provisions of this chapter shall apply. These definitions are in addition to those outlined in Chapter 2 of the 2019 edition of the California Energy Code found in Part 6 of Title 24 of the California Code of Regulations.

- (1) “Accessory Dwelling Unit” shall have the same meaning as specified in Government Code section 65852.2 and Ojai Municipal Code section 10-2.1709.
- (2) “All-electric building” is a building where electricity, including solar-provided electricity, is the only permanent source of energy for water-heating (including pools and spas), space-heating, space-cooling, cooking, and clothes- drying.
- (3) “Attached Accessory Dwelling Unit” is an Accessory Dwelling Unit that does not meet the definition of a Free-Standing Accessory Dwelling Unit.
- (4) “Covered project” means a newly-constructed residential or non-residential building, and all related outbuildings and accessory structures and equipment, including pool heaters, outdoor fireplaces, and outdoor cooking facilities, for which one or more building permits, including plumbing permits, are required for construction as set forth in the Building Code requirements adopted by reference in Section 9-1.102.
- (5) “Free Standing Accessory Dwelling Unit” is a detached building that is not intended for sale separate from the primary residence, on a lot that is zoned for single-family or multifamily use, located on the same lot as an existing dwelling, and does not exceed 1,200 square feet of total floor area.
- (6) “Low-Rise Residential Building” shall have the same meaning as specified in the 2019 Energy Code, Part 6 of Title 24 of the California Code of Regulations.
- (7) “Newly Constructed” shall have the same meaning as “Newly Constructed Building” in the 2019 Energy Code, Part 6 of Title 24 of the California Code of Regulations.

**Section 9-1.1006 - Requirement for All-Electric New Construction in Low-Rise Residential and Non-Residential Buildings**

All covered projects shall be built as all-electric buildings. 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 built as all-electric buildings.

**Section 9-1.1007 - Local Amendments to California Building and Energy Code Requirements for New Construction Residential and Non-Residential Buildings**

The City of Ojai hereby amends the California Building Code, Section 117, to read as follows:

CBC Section 117 – All new constructed buildings and structures shall not be supplied with natural gas for the purpose of water-heating (including pools and spas), space-heating, space-cooling, cooking, and clothes-drying.

The City of Ojai hereby amends the California Residential Code, Section R115, to read as follows:

CRC Section R115 – All new constructed residential buildings and structures shall not be supplied with natural gas for the purpose of water-heating (including pools and spas), space-heating, space-cooling, cooking, and clothes-drying.

**Section 9-1.1008 - 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 difficulties in achieving compliance and shall identify the relevant exemptions from the requirements of this chapter that are requested.
- (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 achieved the required compliance set forth 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. If any provision of this chapter conflicts with any duly adopted and valid statutes or regulations of the federal government or the state of California, the federal or state statutes or regulations shall take precedence.
- (e) **The City's Building Official may adopt additional regulations to implement the purposes of this Chapter and each applicant for a building permit shall comply with all such additional regulations.**

**Section 9-1.1009 – Exemptions and Exceptions to the Requirement of All-Electric New Construction in Low-Rise Residential and Non-Residential Buildings.**

- (a) **Exceptions.** The provisions of this chapter shall not apply to:
  - (1) Buildings which are temporary (such as construction trailers).
  - (2) Attached Accessory Dwelling Units.
  - (3) Any Free-Standing Accessory Dwelling Unit if the applicant can demonstrate to the satisfaction of the Building Official that the proposed accessory dwelling unit will require the installation of an upgraded electric utility panel.
  - (4) New or replacement stationary emergency generators powered by natural gas.
  - (5) Any portion of any new residential building that contains any residential units deed-restricted to be affordable housing at the very-low, low-, or moderate income levels for at least fifty-five (55) years from the date of the building's certificate of occupancy.
  - (6) Any project where compliance with this chapter shall adversely affect the project's participation in a Property Assessed Clean Energy (PACE) financing program agreement, in the reasonable judgment of the Building Official.
  - (7) Any remodel or modification to any residential or non-residential building issued a certificate of occupancy or equivalent final approval by the Building Official before January 1, 2021, including any new or modified outbuildings, accessory structures and equipment, pool heaters, outdoor fireplaces, and outdoor cooking facilities on the same parcel as the existing building.
  - (8) New or modified restaurants.
  - (9) New or replacement swimming pool heaters and related equipment.

(b) Hardship or infeasibility exemption: If an applicant for a covered project believes that circumstances exist that make it a hardship or 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 hardship or infeasibility.

(1) Application: The applicant shall identify in writing the circumstances that make it infeasible or a hardship for the covered project to comply with this chapter.

(2) Granting of exemption: If the \_\_\_\_\_ determines that it is a hardship or infeasible for the applicant to meet the requirements of this chapter, and that granting the requested exemption will not cause the building to fail to comply with the 2019 California Energy Standards (Title 24, Part 6) and referenced standards, the \_\_\_\_\_ may determine that the applicant is exempt from the requirements of this chapter.

• Evidence which may be considered by the \_\_\_\_\_ in determining whether unreasonable hardship or infeasibility exists, includes, but is not limited to, the following:

- a. Approval or conditional approval to do work permitted by this chapter with all-electric appliances will not enable the applicant to rent or sell the building at a reasonable rate of return;
- b. It is not technically feasible to renovate or undertake an alternative development compatible with the permit criteria outlined in this chapter;
- c. Other land use regulations and development standards, set forth in the City's Municipal Code, including in the zoning ordinance, historic preservation ordinance, and building code, preclude compliance with this chapter;
- d. There is a lack of commercially available materials and technologies to comply with the requirements of this chapter; or
- e. Applying the requirements of this chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property.

(3) Denial of exemption: If the \_\_\_\_\_ determines that it is reasonably possible 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: Any aggrieved applicant may appeal the determination of the \_\_\_\_\_ regarding the granting or denial of an exemption or compliance with any other provision of this chapter. An appeal of a determination of the \_\_\_\_\_ shall be filed in writing to the \_\_\_\_\_ and processed in accordance with the provisions of Section \_\_\_\_\_ of this Code.

### **Section 9-1.1010 - Violations**

Violations of the requirements of this Chapter shall be considered an infraction, subject to all applicable remedies under this Code. 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 3: ANNUAL REVIEW**

The City of Ojai shall review annually the requirements of this Ordinance for ongoing consistency with the California Energy Commission regulations under Title 24 of the California Code of Regulations.

**SECTION 4: 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 5: 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 6. 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. Further, a copy of this Ordinance shall be filed with the California Building Standards Commission and California Energy Commission complete with local findings that justify the local amendment to the California Building Standards Code, as required by California Health and Safety Code § 17959(b)(1).

**SECTION 7. Effective Date.** This Ordinance is enacted pursuant to and in compliance with California Health and Safety Code §§ 17958, 17058.5, 17958.7, 18941.5; and California Public Resources Code § 25402.1(h)(2). 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 provided that the all-electric requirement of this Ordinance cannot be enforced by the City of Ojai until it has further been approved by the California Energy Commission. (Cal. Pub. Res. Code § 25402.1(h)(2)).

**SECTION 8. Six-Month Review.** The City Council shall consider the implementation of, and any desired modifications to, this Ordinance six months after its effective date, to include a report from the Building Official and City Manager as to its application to any building permits issued within the six month period.

CITY OF OJAI, CALIFORNIA

By \_\_\_\_\_

John F. Johnston, Mayor

ATTEST:

\_\_\_\_\_  
Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Matthew T. Summers, City Attorney

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

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 \_\_\_\_\_ and adopted at a regular meeting held on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Gail Davis  
Deputy City Clerk for the City of Ojai