

**CITY OF OJAI**  
**ORDINANCE NO. 866 U**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF OJAI, CALIFORNIA AMENDING OJAI  
MUNICIPAL CODE SECTION 10-2.1709 GOVERNING  
SECOND RESIDENTIAL UNITS TO CONFORM TO NEW  
STATE STATUTORY MANDATED SECOND UNIT  
ORDINANCE REQUIREMENTS.**

WHEREAS, a second residential unit is an attached or a detached residential dwelling unit which provides complete independent living facilities for one (1) or more persons that includes permanent provisions for living, sleeping, eating, cooking, and sanitation and is situated on the same parcel or parcels as the primary residential unit; and

WHEREAS, as permitted by Government Code section 65852.2, the City Council previously adopted an ordinance providing for the creation and regulation of second units; and

WHEREAS, the Legislature recently amended Government Code section 65852.2 via Senate Bill 1069 and Assembly Bill 2299, adding additional requirements the City must comply with to be allowed to maintain and enforce a second unit ordinance, now referred to in the Government Code as an accessory dwelling unit ordinance, including that the City must permit by right a detached second unit of at least 1,200 square feet, permit by right an attached second unit of up to 50 percent of the existing living area (including a basement and attic) of the primary unit or 1,200 square feet (whichever is less), must reduce specified parking requirements, must permit a garage conversion to maintain existing setbacks and may only impose a minimum setback of 5 feet from side and rear lot lines for second units constructed above existing garages, and must permit compliant second units to be reviewed and approved ministerially, with no discretionary review required for second units meeting the minimum requirements; and

WHEREAS, the City's current second residential unit ordinance requires revision to comply with these requirements; and

WHEREAS, the new Government Code section 65852.2, subdivision (a)(4) requires that the City amend its second residential unit ordinance to comply with the new state standards by its effective date of January 1, 2017 or else the City's second residential unit ordinance will be preempted and only the state minimum requirements would apply; and

WHEREAS, the City Council recognizes the need to take immediate action to amend the second residential unit ordinance to comply with the new state mandated requirements to protect

and ensure the continued viability of the City’s existing local regulations above the state mandated requirements, allowed by existing law and which will continue to be allowed by the new amendments to Government Code section 65852.2, thereby ensuring that second units will continue to be compatible in aesthetics, design, form, height, materials, color, and visually with the existing primary unit and will be placed in such a manner to preserve the community’s existing character and minimize negative privacy impacts on adjacent properties; and

WHEREAS, the City Council declares that the protection of the public peace requires the preservation of the community’s existing low-density, residential character while still accommodating needed additional housing requires acting immediately to amend the second residential unit ordinance to conform it to the new state mandated requirements, thereby preserving the remaining portions of the second residential unit ordinance that are not in conflict with state law as will be in effect on January 1, 2017; and

WHEREAS, the City Council has the power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety via exercise of the police power provided to cities in Article XI, section 7 of the California Constitution and in compliance with Government Code section 36937; and

WHEREAS, these issues constitute a current and immediate threat to the public peace, health, and safety within the meaning of Government Code Section 36937; and

WHEREAS, the City Council intends to separately continue the City’s ongoing second unit regulation evaluation process in which the City Council and Planning Commission have been and will continue to evaluate additional and further amendments to the second unit ordinance, to be considered and adopting in the usual manner after full consideration at the Planning Commission and City Council.

**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. Adoption as Urgency Ordinance.** This ordinance is adopted as an urgency ordinance pursuant to powers conferred on the City by California Constitution, Article XI, Section 7, and California Government Code Sections 36934 and 36937, and shall be effective immediately upon its adoption. As detailed in the recitals and findings set forth above, the City Council finds and determines that the adoption of this urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety. This urgency ordinance must be adopted by not less than a four-fifths (4/5th) vote of the City Council.

**SECTION 3. Second Residential Unit Ordinance Amendment – Maximum Size.** Ojai Municipal Code section 10-2.1709, subdivision (c)(1) is hereby amended to read as follows:

(1) The maximum size of the floor area of a detached second unit shall not exceed one-thousand, two hundred (1,200) square feet. The maximum size of the floor area of an attached second unit shall not exceed fifty percent (50%) of the existing living area of the primary unit, inclusive of any basement and attic, or one-thousand, two hundred (1,200) square feet, whichever is less.

**SECTION 4. Second Residential Unit Ordinance Amendment – Setback Requirements for an Existing Garage.** Ojai Municipal Code section 10-2.1709, subdivision (c)(5) is hereby amended to read as follows:

(5) Except as provided in this section, the following regulations of the zone where the lot is located upon which the second unit is to be constructed shall be met:

- (A) Lot coverage;
- (B) Front, rear, and side setbacks; and
- (C) Height and stories.

Setback requirements shall not apply to an existing legal garage converted to a second unit. Setbacks for a second unit constructed above an existing legal garage shall be a minimum of five (5) feet from the side and rear lot lines.

**SECTION 5. Second Residential Unit Ordinance Amendment – Parking Requirements.** Ojai Municipal Code section 10-2.1709, subdivision (c)(9) is hereby amended to read as follows:

(9) The primary unit shall meet the minimum parking requirements of the applicable zone, and one additional uncovered but on-site paved parking space shall be provided for second units. The additional on-site space required for the second unit may be provided by tandem parking. If an existing garage, carport, or covered parking structure is to be demolished in conjunction with the construction of a legal second unit, replacement parking spaces may be provided in any configuration on the lot, including but not limited to covered, uncovered, or tandem spaces, or by the use of mechanical automobile parking lifts. Notwithstanding any other provision of law, no additional parking shall be required for a second unit if any of the following is true:

- (A) The second unit is located within one-half mile of a regularly scheduled public transit stop;
- (B) The second unit is located within a City Council designated historic district;

(C) The second unit is part of the existing primary residence or an existing accessory structure;

(D) On-street permits are required by the City but not offered to the occupant of the second unit; or

(E) There is a publically accessible car share vehicle regular parking location within one block of the second unit.

**SECTION 6. Second Residential Unit Ordinance Amendment – Ministerial Review and Second Stories.** Ojai Municipal Code section 10-2.1709, subdivision (c)(11) is hereby amended to read as follows:

(11) So long as the design criteria set forth in subsection (d) are met as determined by the Director, and provided that the second residential unit is either no taller than fifteen (15') in height or is within the building envelope of the existing legal second story of an existing legal primary unit, has independent exterior access from the existing legal primary unit, and side and rear setbacks are adequate for fire safety as determined by the Director, then a Design Review Permit shall not be required under Section 10-2.2003. The decision of the Director shall be final; provided however, an applicant shall have the right to contest the Director's determination by obtaining a Design Review Permit from the Commission or otherwise appealing as permitted by applicable law.

**SECTION 6. 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 amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following reason:

- a. The adoption of this ordinance does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the second residential unit ordinance, changing the standards for second residential units as required by state law, has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of changes in the standards governing issuance of ministerial permits for second residential units and does not directly or indirectly approve any applications for particular second units. The adoption of this ordinance is therefore exempt from CEQA review pursuant to California Code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA Guidelines.

**SECTION 7. 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 8. 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 9. Effective Date.** In light of the findings and declaration of facts in Section 1, the City Council declares that this ordinance is necessary as an urgency measure for the immediate preservation of the public peace, health, and safety, and shall take effect immediately upon its passage by a 4/5 vote of the Ojai City Council, as provided by Government Code Section 36937, subdivision (b), and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

**SECTION 10. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

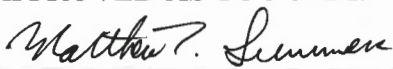
CITY OF OJAI, CALIFORNIA

By   
Paul Blatz, Mayor

ATTEST:

  
Cynthia Burell, City Clerk

APPROVED AS TO FORM:

  
Matthew T. Summers, City Attorney

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

I, Cynthia Burell, City Clerk of the City of Ojai, do hereby certify that the foregoing Ordinance was adopted at a special meeting of the City Council of the City of Ojai held on November 15, 2016 by the following vote:

AYES: Blatz, Haney, Lara, Weirick  
NOES: None  
ABSTAIN: None  
ABSENT: Clapp

  
City Clerk for the City of Ojai