

CITY OF OJAI
ORDINANCE NO. 901

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF OJAI, CALIFORNIA AMENDING OJAI
MUNICIPAL CODE SECTION 10-2.804, SETBACK
MEASUREMENT AND EXCEPTIONS, AND DECLARING
THE URGENCY THEREOF IN ACCORD WITH
GOVERNMENT CODE SECTIONS 36934 AND 36937.**

WHEREAS, the City Council began a comprehensive review and evaluation of existing Ojai Municipal Code standards for placement, height, siting, and other aspects of fences, hedges, and walls on October 23, 2018; and

WHEREAS, the Ojai Planning Commission made a recommendation on June 5, 2019 for an overhaul and series of amendments to the Ojai Municipal Code standards for placement, height, siting, and other aspects of fences, hedges, and walls; and

WHEREAS, the City Council considered the Planning Commission's recommendations regarding fence, hedges, and walls at its July 9, 2019 meetings, providing direction regarding amendments to these standards; and

WHEREAS, several applications have recently been filed for new or expanded fences and walls which, in concert with the City Council's discussion at its July 9, 2019 meetings, have revealed that the current Ojai Municipal Code definition for measurement of setbacks, used to determine maximum allowable fence heights in front yards, is inconsistent with the City Council's previously expressed intent to preserve open front yards; and

WHEREAS, the City Council intends to preserve the community's character and protect the public's health and safety by adopting this urgency ordinance intended to correct the identified definitional error, preventing use of accessory structures as a loophole device to allow installation of a front yard fence in violation of the City Council's intent; and

WHEREAS, the City Council finds that this ordinance adopting an adjusted definitional standard for setback measurement, and thereby requiring that the front setback area in which fences must be three feet tall or less be defined as the area between the front property line of the parcel (or edge of access easement on a private street) and the nearest point of the wall of the primary structure, meaning the residence or primary building, if non-residential, is consistent with the goals, policies, and actions of the General Plan, including the Land Use Element's Objective that the City will "preserve Ojai's small town character and maintain a built environment that does not

detract from Ojai’s natural environment” and Policy LU-2, requiring preservation of “residential streetscapes dominated by broad canopy trees and oaks,” not front yard walled-off compounds; and

WHEREAS, this Ordinance implements the General Plan’s visions and desire for the community, is adopted in the public's interest, and is otherwise consistent with federal and state law; and

WHEREAS, the City Council finds that the these issues constitute a current and immediate threat to the public health, safety, and welfare, within the meaning of Government Code Section 36937, as the public’s health, safety, and welfare depend on the continued vitality of a connected, engaged community, and front yard fences and walls that exceed applicable height standards create walled-off compounds instead of a connected “front porch” residential community and harm the public health, safety, and welfare by: impeding access to the front of residential properties for firefighting, police, and other public safety purposes; preventing easy identification of residential properties by public safety and utility officials in emergency situations; and creating public nuisances if fences are built within front yards beyond the City’s height standards, as may continue if this definitional error is not corrected immediately; and

WHEREAS, Government Code Section 36937, subdivision (b) authorizes the adoption of ordinances that take effect immediately for the purpose of preserving the public peace, health or safety, provided such ordinances are approved by four-fifths (4/5) vote of the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI FURTHER FINDS that the adoption of this Ordinance is necessary to protect the public safety, health and welfare by ensuring well-planned development of residential properties in the City and that it should adopt this interim urgency zoning ordinance under Government Code Sections 36937.

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. Urgency Findings: The City Council finds as follows, pursuant to Government Code Section 36937, subdivision (b):

A. The preservation of the community’s existing character is critical for maintaining and strengthening the public’s safety, health, and welfare, as these depend on the continued vitality of a connected, engaged community, and front yard fences and walls that exceed applicable height standards create walled-off compounds instead of a connected residential community and harm the public health, safety, and welfare by: impeding access to the front of residential properties for firefighting, police, and other public safety purposes; preventing easy identification of residential

properties by public safety and utility officials in emergency situations; and creating public nuisances if fences are built within front yards beyond the City's height standards, as may continue if this definitional error is not corrected immediately.

B. Without adopting this ordinance correcting an error in the Ojai Municipal Code defining setback measurement rules, and thus defining the allowable height of fences within front yards on an urgency basis, the City's small-town character, as detailed in the Land Use Element of the General Plan, will be adversely impacted by the continued development of front yard walled-off compounds inconsistent with the community's character and the policies and standards of the General Plan and Ojai Municipal Code, harming in turn the City's aesthetic and visual character which forms its existing community character and is critical for the preservation of the public's health, safety, and welfare. Accordingly, the adoption of this urgency ordinance is necessary to immediately preserve the public peace, health, and safety, as permitted under Government Code Section 36937, subdivision (b).

SECTION 2. Urgency Code Amendment. Ojai Municipal Code section 10-2.804 is amended to read as follows, with additions denoted by underlined text and deletions denoted by ~~struck-through text~~.

Section 10-2.804. Setback measurement and exceptions.

(a) This section provides standards for the size of setbacks. These standards provide open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation, and direct sunlight; separation of incompatible land uses; and space for privacy, landscaping, and recreation.

(b) All structures shall comply with the setback requirements of each zoning district, and with any setbacks established for specific uses by this article, except as otherwise provided by this section. Portions of any structure, including eaves or roof overhangs, shall not extend beyond a property line or into an access easement or street right-of-way, without first securing an encroachment permit.

(1) Where setbacks have been established for individual vacant parcels by a specific plan, an approved subdivision map, or other entitlement, those setbacks shall apply to continuing development within the approved project instead of the setbacks required by these Zoning Regulations.

(2) The Commission may authorize uniform setbacks for a specific project that are different from those required by Articles 2 through 7 of this chapter, through the approval of a planned development permit (Article 23 of this chapter).

(c) Setbacks shall be measured as follows:

(1) The front setback shall be measured at right angles from the nearest point on the front property line of the parcel (or edge of access easement on a private street) to the nearest point of the wall of the structure, except as follows:

(A) For flag lots, with a fee ownership strip extending from a street or right-of-way to the building area of the parcel, the area of the required front setback shall be determined by the Director, but shall not be less than the required side setback.

(B) For corner parcels, the measurement shall be taken from the nearest point of the structure to the nearest point of the property line adjoining the street which provides the street address, or provides access to the site, as determined by the Director.

(C) The front setback for fences, walls, hedges, and screening shall be measured at right angles from the nearest point on the front property line of the parcel (or edge of access easement on a private street) to the nearest point of the wall of the primary structure.

(2) The side setback shall be measured at right angles from the nearest point on the side property line of the parcel to the nearest line of the structure, establishing a setback line parallel to the side property line, which extends between the front and rear yards.

(3) The side setback on the street side of a corner parcel shall be measured from the nearest point of the side property line adjoining the street, or the easement for a private road.

(4) The rear setback shall be measured at right angles from the nearest point on the rear property line to the nearest line of the structure, establishing a setback line parallel to the rear property line. The Director shall determine the location of the required rear setback on a double-frontage parcel.

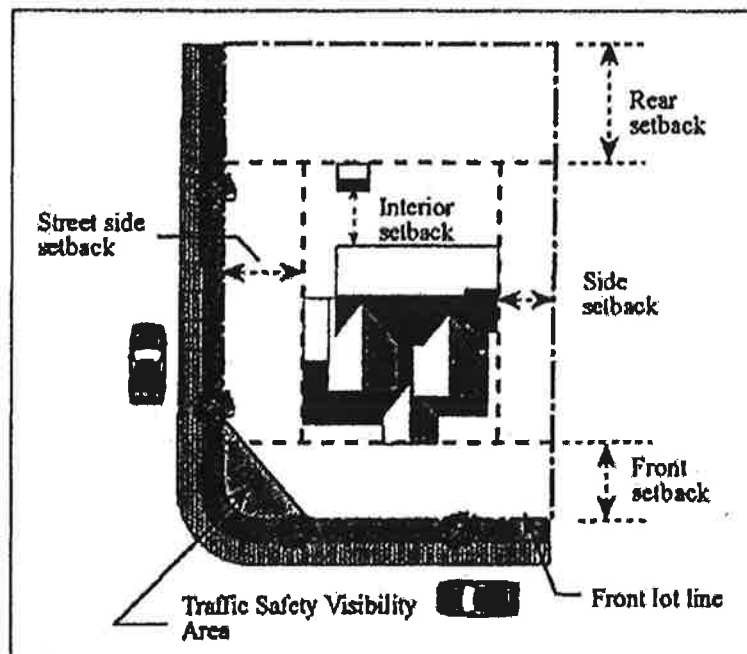


Figure 3-3

LOCATION AND MEASUREMENT OF SETBACKS

(d) The minimum setback requirements of these Zoning Regulations apply to all development and new land uses, except for the following:

- (1) Fences or walls six (6') feet or less in height above the finish grade of the site, when located outside of the front setback, or not more than three (3') feet in height within a front setback;
 - (2) Decks, earthworks, free-standing solar devices, steps, terraces, and other site design elements that are placed directly upon finish grade and do not exceed a height of eighteen (18") inches above the surrounding grade at any point; and
 - (3) Retaining walls less than thirty-six (36") inches in height above finish grade. Embankments to be retained that are over forty-eight (48") inches in height shall be benched so that no individual retaining wall exceeds a height of thirty-six (36") inches.
- (e) Limitations on uses of setbacks.
- (1) Required setback areas shall not be occupied by structures other than:
 - (A) The fences, walls, and hedges allowed by Section 10-2.805; and
 - (B) The projections into setbacks allowed by subsection (f), below.
 - (2) Front or street side setbacks, or any other portion of a parcel visible from a public street, shall not be used for the storage of boats, garbage, habitable trailers, junk, scrap, trash, utility trailers, and similar equipment, items, or vehicles. This restriction includes the storage of operable or inoperable vehicles in other than improved parking areas.
 - (3) Required residential parking spaces shall not be located within required setback areas. Temporary (overnight) parking is allowable within required setback areas only on paved driveways, in compliance with Section 10-2.1408
 - (4) Within a residential zoning district, pavement within a front yard shall be limited to:
 - (A) A driveway no wider than the garage doors it accesses; and
 - (B) A pedestrian walkway not more than five (5') feet wide, unless more pavement is approved through design review (Article 20 of this chapter).
- (f) Attached architectural features and certain detached structures may project beyond the wall of the structure and into the front, side, and rear setbacks, in compliance with the following requirements:
- (1) Architectural features attached to the main structure may extend beyond the wall of the structure and into the front, side, and rear setbacks, in compliance with Table 3-1. See also Figure 3-4.
 - (2) Air conditioning, heating, and similar equipment may extend up to thirty (30") inches into side and rear setbacks, but no closer than thirty-six (36") inches to any property line. (Swimming pool, hot tub, and spa equipment are subject to the requirements in subsection (g) below.)
 - (3) A structure designed with irregular or articulated wall elements may project into the required front and rear setback areas provided that the average distance of the walls from the property lines complies with the setback requirements.

Table 3-1
ALLOWED PROJECTIONS INTO SETBACKS

Projecting Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Bay windows, and similar projecting windows	20% of setback	20% of interior setback (2); 40% of street side setback (2)	20% of setback
Chimney/fireplace, 6 ft. or less in breadth	24 in. (1)	24 in. (1)	24 in. (1)
Cornice, eave, awning, roof overhang	30 in.	30 in. (2)	30 in. (2)
A roof structure without walls that covers a porch, deck, balcony, or patio.	25% of setback to a maximum of 6 ft.	20% of side setback; 40% of street side setback	12 ft. in single-family districts; 5 ft. in multi-family districts
Deck, balcony, porch, stairway - uncovered, and less than 30 in. above grade	May project to 15 ft. in front setback and to property line in other setback areas		

Notes:

- (1) Feature may project no closer than thirty-six (36") inches to any side property line.
- (2) Feature may project no closer than twenty-four (24") inches to any property line.

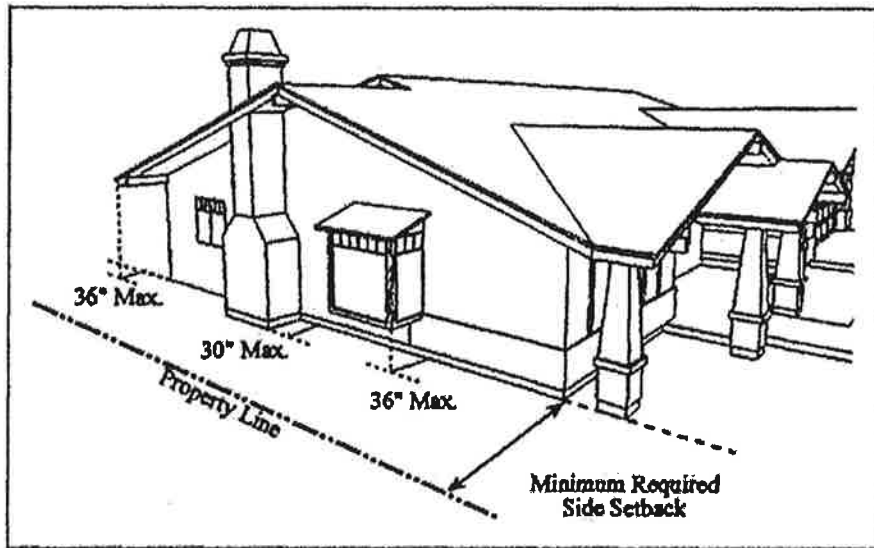


Figure 3-4

EXAMPLES OF ALLOWED PROJECTIONS INTO SIDE SETBACKS

- (g) Setback requirements for specific structures.
 - (1) For fences, see Section 10-2.805
 - (2) Detached decks, earthworks, freestanding solar devices, steps, terraces, and other site design elements which are placed directly upon finish grade, and which exceed a height of eighteen (18") inches above the surrounding grade at any point, shall conform to the setback requirements of these Zoning Regulations for detached accessory structures. (Note: Site design elements less than eighteen (18") inches above finish grade are exempt.)
 - (3) Swimming pools, hot tubs, and spas shall be set back a minimum of five (5') feet from the side and rear property lines. The associated equipment for the above listed facilities shall be set back a minimum of five (5') feet from the side and rear property lines.
- (h) The minimum distance between residential structures on the same parcel shall comply with Table 3-2.

**Table 3-2
MINIMUM DISTANCE BETWEEN STRUCTURES**

Characteristics of Residential Structures	Minimum Distance Between Structures (1)
1-story structures	10 ft.
2-story structures	15 ft.
Where one (1) or both walls contain windows (2)	Add 5 ft.

Notes:

- (1) The height of the taller of two adjoining structures shall dictate the minimum distance requirements of Table 3-2.
- (2) Landscaping shall be incorporated into multi-family residential projects to effectively screen views and provide privacy for adjoining units.

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 amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following independent reasons:

- a. This ordinance amending the definitional standard for setback measurement, and thus limiting the height of certain fences within front yards, is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section 15308. (Cal. Code Regs., tit. 14, § 15308.) This section exempts "actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration,

enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment.” The ordinance is adopted under the City’s police power and its authority provided by Government Code section 36937 to protect and preserve the City and Ojai Valley’s existing community standards, fire and life safety protection and access requirements, and to preserve the City’s existing residential built environment pending further action of the City Council. The exceptions to the categorical exemptions under CEQA Guidelines section 15300.2 are not applicable. There are no potentially significant environmental impacts as a result of cumulative impacts because this ordinance does not, itself, authorize any development activities. There are no unusual circumstances present here that mean there is a reasonable possibility that the ordinance will have a significant effect on the environment, because the ordinance does not permit new development or actions which will result in on-the-ground impacts. The scenic resources, hazardous waste sites, and historical resources exceptions all also do not apply changing the setback measurement standard in a way that limits the height of certain front-yard fences will not result in any impacts upon these special status sites. Therefore, the ordinance is exempt from review under CEQA.


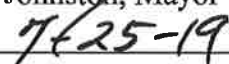
- b. Additionally, this ordinance does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The ordinance has no potential for resulting in physical changes in the environment, directly or indirectly, because it changes the setback measurement standard in a way that limits the height of certain front-yard fences, but does not itself authorize any development. 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 6. 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 7. Effective Date. This Ordinance is adopted by a 4/5 vote of the Ojai City Council and shall take effect immediately upon its adoption as provided by Government Code Section 36937, subdivision (b). Upon its effective date, this ordinance shall apply to any project which has not yet received a zoning clearance or other zoning permit from the Community Development Department.

SECTION 8. 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 
John F. Johnston, Mayor

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 Urgency Ordinance was introduced and adopted at a special meeting of the City Council of the City of Ojai held on July 22, 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