

**CITY OF OJAI
ORDINANCE NO. 823**

**AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF OJAI ADOPTED AS AN URGENCY MEASURE IMPOSING A
TEMPORARY MORATORIUM ON THE INSTALLATION OF
SMARTMETERS AND RELATED EQUIPMENT IN, ALONG, ACROSS,
UPON, UNDER AND OVER THE PUBLIC STREETS AND OTHER
PLACES WITHIN THE CITY OF OJAI**

THE CITY COUNCIL OF THE CITY OF OJAI DOES FIND AS FOLLOWS:

A. The City of Ojai (the "City"), through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection; and

B. The City of Ojai has a franchise agreement with SCE that has been in effect since the early 1950's; and

C. In addition, the City retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities, and pursuant to California Public Utilities Code section 6203, "may in such a franchise impose such other and additional terms and conditions..., whether governmental or contractual in character, as in the judgment of the legislative body are to the public interest;" and

D. Public Utilities Code section 2902 acknowledges the reservation of the City's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets;" and

E. Southern California Edison Company ("SCE") is now installing SmartMeters within its service area including Ventura County and is installing these meters within the City of Ojai; and

F. Concerns about the impact and accuracy of SmartMeters throughout California, and nationwide, leading local and state governmental organizations to call for delays or outright bans on the deployment of SmartMeters; and

G. Significant health questions have been raised concerning the increased electromagnetic frequency radiation (EMF) and radiofrequency (RF) radiation emitted by the wireless technology in SmartMeters, which will be in every house, apartment and business, thereby adding additional man-made EMF to our environment around the clock to the already existing EMF from utility poles, individual meters and telephone poles; and

H. FCC safety standards are inadequate to address chronic long-term exposure to EMF or from multiple sources, and fail to recognize reported adverse health effects from electromagnetic pollution include sleep disorders, irritability, short term memory loss, headaches, anxiety, nausea, DNA breaks, abnormal cell growth, cancer, premature aging, etc. Because of untested technology, international scientists, environmental agencies, advocacy groups and doctors are calling for the use of caution in wireless technologies; and

I. Opt out rules belatedly approved by the CPUC are unjust, discriminatory and ineffective and should be reformed before any more SmartMeters are deployed by SCE; and

J. Because the potential risks to the health, safety and welfare of City residents are so great, the City Council wishes to adopt a moratorium on the installation of SmartMeters and related equipment within the City of Ojai. The moratorium period will allow the Council on Science and Technology and legislative process referenced above to be completed and for additional information to be collected and analyzed regarding potential problems with SmartMeters; and

K. There is a current and immediate threat to public health, safety and welfare because, without this urgency ordinance, SmartMeters or supporting equipment are being installed or constructed or modified in the City subjecting residents of Ojai to the privacy, security, health, accuracy and consumer fraud risks of the unproven SmartMeter technology; and

L. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction or installation of any facilities and, in fact, imposes greater restrictions on such construction and installation in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

M. There is no feasible alternative to satisfactorily study the potential impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency moratorium ordinance; and

N. The City Council has considered all of the information and materials contained in and referenced by that certain Administrative Report presented at its meeting of May 29, 2012 and the findings and conclusion contained therein are incorporated herein by this reference; and

O. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the SmartMeter technology; therefore it is appropriate to adopt a temporary moratorium that shall remain in effect from the date of its adoption until December 31, 2012, unless repealed prior to that date.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. From and after the effective date of this Ordinance, no SmartMeter may be installed in or on any home, apartment, condominium or business of any type within the City of Ojai, and no equipment related to SmartMeters may be installed in, on, under, or above any public street or public right of way within the City of Ojai.

SECTION 2. Violations of the Moratorium may be charged as infractions or misdemeanors as set forth in Section 1-2.03 of the Ojai Municipal Code. In addition, violations shall be deemed public nuisances, with enforcement by injunction or any other remedy authorized by law.

SECTION 3. This City Council finds and determines, an accordance with Government Code Section 36937 that: (a) there is a current and immediate threat to the public peace, health, or safety; (b) the moratorium must be imposed in order to protect and preserve the public interest, health, safety, comfort and convenience and to preserve the public welfare; and (c) it is necessary to preserve the public health and safety of all residents or landowners adjacent to such uses as are affected by this interim ordinance as well as to protect all of the citizens of Ojai by preserving and improving the aesthetic and economic conditions of the City.

SECTION 4. If any provision of this interim ordinance is held to be unconstitutional, it is the intent of the City Council that such portions of such ordinance be severable from the remainder and the remainder be given full force and effect.

SECTION 5. This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c) (2) — the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c) (3) — the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 6. This ordinance shall take effect immediately based on the findings by the City Council that this ordinance is necessary for the protection of the public health, safety, and general welfare. This ordinance shall be in full force and effect from the date of its adoption by the City Council until December 31, 2012, at which time its terms and provisions shall expire and no longer remain in effect.

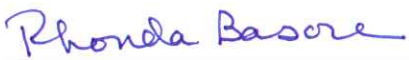
SECTION 7. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the Ojai Valley News, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 8. This Ordinance shall become effective immediately upon adoption by a 4/5 vote.

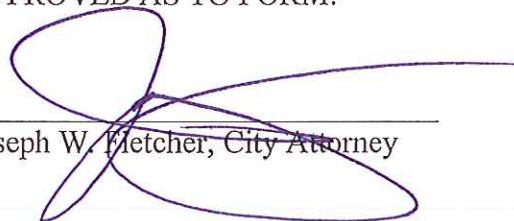
CITY OF OJAI, CALIFORNIA

By 
Betsy Clapp, Mayor

ATTEST:


Rhonda Basore, City Clerk


APPROVED AS TO FORM:


Joseph W. Fletcher, City Attorney

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

I, Rhonda K. Basore, 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 May 29, 2012 by the following 4/5 vote:

AYES: Blatz, Clapp, Smith, Strobel
NOES: None
ABSTAIN: None
ABSENT: Horgan (excused)


Rhonda K. Basore
City Clerk for the City of Ojai