

ORDINANCE NO. 2023-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING CHAPTER 17.23 OF TITLE 17 OF THE TEMECULA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNIT (ADU) REGULATIONS AND PROVIDING THAT ADU'S ARE PERMITTED IN THE PDO-5, PDO-7, PDO-9, PDO-10, PDO-11, PDO-12, AND PDO-15 ZONES, AND REVISING ADU REGULATIONS, AND MAKING A FINDING THAT THE ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.17

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council of the City of Temecula does hereby find, determine and declare that:

A. City staff identified the need to make revisions and clarifications to portions of Title 17 (Zoning) of the Temecula Municipal Code.

B. The code amendments are being made to ensure the Temecula Municipal Code is amended in conformity with the housing programs that the City committed to when it adopted the 2021-2029 Housing Element and amendments needed to conform to changes in State law.

Section 2. Procedural Findings. The City Council of the City of Temecula does hereby find, determine, and declare that:

A. On October 18, 2023, the Temecula Planning Commission considered this Ordinance at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or opposition to this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2023-18 recommending approval of the Ordinance by the City Council.

C. On November 14, 2023, the City Council, at a regular meeting, considered the Ordinance at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or opposition to this matter.

D. Following the public hearing, the City Council considered the entire record of information received at the public hearings before the Planning Commission and City Council.

Section 3. Further Findings. The City Council of the City of Temecula in approving the proposed Municipal Code amendments hereby makes the following additional findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

A. The use is allowed in the land use designation in which the use is located, as shown on the land use map, or is described in the text of the General Plan;

The proposed amendments do not propose any land use that is inconsistent with the General Plan. The proposed amendments implement changes to the City’s ADU policies to comply with changes to state law. The proposed amendments include changes to height limits, amended definitions of attached and detached ADU’s, limits the sale or transfer of an ADU in accordance with Government Code Section 65852.26(a), and prohibit front yard setbacks that would preclude the construction of an eight hundred (800) square foot ADU.

B. The proposed use is in conformance with the goals, policies, programs and guidelines of elements of the General Plan;

The Ordinance implements the goals and policies contained in the City’s 2021-2029 Housing Element. The Ordinance amends the Municipal Code to implement the programs of the Housing Element to remove constraints on the development of housing.

C. The proposed use is to be established and maintained in a manner which is consistent with the General Plan and all applicable provisions contained therein;

The proposed changes to Title 17 conform with the goals, policies, programs and guidelines of the elements of the General Plan. The proposed changes allow for the limited sale or transfer of an ADU, amend the definition of detached and attached ADU’s, include ADU’s as a permitted use in Planned Development Overlay (PDO) Zone No.’s 5, 7, 9, 10, 11 and 12 and revise ADU regulations is consistent with Goal 2 of the Growth Management/Public Facilities Element of the Temecula General Plan, which is to ensure “Orderly, and efficient patterns of growth that enhance quality of life for Temecula residents.” As a relatively new home product type, ADU’s further Policy 2.5 of the Growth Management/Public Facilities element of the General Plan that states, “Encourage new development that helps create and maintain a balance between jobs and housing opportunities.”

Section 4. Section 17.22.146 (Use Regulations) of Article VI (Rendezvous Planned Development Overlay District (PDO-5)) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows (with additions shown in underlined text):

“E. Accessory dwelling units shall be permitted and shall meet the requirements set forth in Chapter 17.23.”

Section 5. Table 17.22.186B (Schedule of Permitted Uses Linfield Christian School Planned Development Overlay District - 7 Description of Use Area) of Section 17.22.186 (Use Regulations) of Article VIII (Linfield Christian School Planned Development Overlay District -7) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to add the following rows, with all other provisions of Table 17.22.186B remaining unchanged:

Description of Use	Area 1A, 1B ₁ <u>1C & 1D (EI)</u>	Area 2 (ER)	Area 3A & 3B (PI)
A			
<u>Accessory dwelling unit²</u>	<u>P</u>	<u>P</u>	<u>P</u>

Footnote 2. Accessory dwelling units shall be permitted and shall meet the requirements set forth in Chapter 17.23.

Section 6. Table 17.22.216(B) Schedule of Permitted Uses Temecula Education Center Planned Development Overlay District-10 of Section 17.22.216 (Use Regulations) of Article XI (Temecula Education Center Planned Development Overlay District - 10) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to add the following row to read as follows, with all other provisions of Table 17.22.216(B) remaining unchanged:

Description of Use	PDO-10
A	
<u>Accessory dwelling unit⁵</u>	<u>P</u>

Footnote 5. Accessory dwelling units shall comply with the requirements set forth in Chapter 17.23.

Section 7. Section 17.22.226 (Use Regulations) of Article XII (Mira Loma Planned Development Overlay District -11) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows (with additions shown in underlined text):

“The Mira Loma planned development overlay district (PDO-11), located along Mira Loma Drive and Rancho Vista Road, is intended to provide for the development of sixty-two single-family detached homes on condominium lots on 7.4 acres with a proposed density of 8.4 du/ac and a maximum permitted density of 10.0 du/ac. The proposed project is comprised entirely of private residential land uses designed to enhance housing opportunities, consider natural features, incorporate private and common open space, private recreation, and develop a common community theme. The project will provide housing opportunities consistent with the city’s general plan policies in response to local market demands and will provide for a visually pleasing environment through adoption of supplemental performance standards that have been provided to ensure compatibility with the adjacent neighborhoods. Accessory dwelling units shall be permitted and shall comply with Chapter 17.23.”

Section 8. Section 17.22.246 (Use Regulations) of Article XIII (Walcott Estates Planned Development Overlay District -12) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows:

“The Walcott Estates planned development overlay district (PDO-12), located between Walcott Lane and Butterfield Stage Road, is intended to provide for the development of forty-five single-family detached homes on fee owned lots, on 25.13 gross acres, with a proposed density of 1.8 dwelling units per gross acre. The proposed project is comprised entirely of private residential land uses designed to enhance housing opportunities, consider natural features, incorporate private and common open space, private recreation, and develop a common community theme. The project will provide housing opportunities consistent with the city’s general plan policies in response to local market demands and will provide for a visually pleasing environment through adaptation of supplemental performance standards that have been provided to ensure transitional compatibility with adjacent neighborhoods. Accessory dwelling units shall be permitted and shall comply with Chapter 17.23.”

Section 9. Section 17.22.294 (Use Regulations) of Article XVI (Cypress Ridge Planned Development Overlay District -15) of Chapter 17.22 (Planned Development Overlay Zoning District (PDO)) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows:

“The Cypress Ridge planned development overlay district (PDO-15), located within Pechanga Parkway, Loma Linda Avenue and Temecula Lane, is intended to provide for the development of two hundred forty-five single-family detached and attached homes within fee simple condominium unit boundaries, on 22.7 gross acres/20.18 net acres, with a proposed average density of 12.14 dwelling units per net acre. The proposed project is comprised entirely of private residential land uses designed to enhance housing opportunities, consider natural features, incorporate private and common open space, private recreation, and develop a common community theme. The project will provide housing opportunities consistent with the city’s general plan policies in response to local market demands and will provide for a visually pleasing environment through adaptation of supplemental performance standards that have been provided to ensure transitional compatibility with adjacent neighborhoods. Accessory dwelling units shall be permitted and shall comply with Chapter 17.23.”

Section 10. Chapter 17.23 (Accessory Dwelling Units) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended in its entirety to read as follows (with additions shown in underlined text and deletions shown in strikethrough text):

“17.23.010 Purpose and applicability.

The purpose of this chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow accessory dwelling units and junior accessory dwelling units in a manner that encourages their development but simultaneously minimizes impacts on traffic, parking, density, and other areas where the city is still permitted to exercise local control.

17.23.020 Definitions.

“Accessory dwelling unit” or “ADU” has the same meaning ascribed in Government Code Section 65852.2, as the same may be amended from time to time. An accessory dwelling unit contains a kitchen, which may include plumbing, electrical, mechanical, and/or physical space set aside for cooking or meal preparation facilities, which may include space for a refrigerator, sink, wet bar, and/or dishwasher.

“Attached ADU” means an ADU that is constructed as a physical expansion (i.e. addition) of the primary dwelling or existing structure and shares a common wall with the primary dwelling or existing structure.

“Detached ADU” means an ADU that is constructed as a separate structure from the primary dwelling or existing structure, which does not share any walls with the primary dwelling or existing structure.

“Existing structure” means an existing single-family dwelling or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the city, and other applicable law.

“Junior accessory dwelling unit” or “JADU” has the same meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time. A junior accessory dwelling unit contains at least an efficiency kitchen, which may include plumbing, electrical, mechanical, and/or physical space set aside for cooking or meal preparation facilities, which may include space for a refrigerator, sink, wet bar, and/or dishwasher.

“Primary dwelling,” for purposes of this chapter, means the existing or proposed single-family dwelling on the lot where an ADU would be located.

“Public transit,” for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

17.23.030 Projects exempt—Building permit approval only

A. An applicant shall not be required to submit an application for an ADU or JADU permit under this chapter, and may instead seek building permit approval for an ADU or JADU that satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, and the California Building Standards Code, as amended by the city.

B. An ADU or JADU approved by a building permit only process shall be rented only for terms of thirty-one days or longer.

C. The property owner shall record a declaration of restrictions, in a form approved by the city attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the ADU or JADU is to be rented only for terms of thirty-one days or longer, unless State law and the city’s municipal code are both amended to allow short-term rentals; (ii) the ADU or JADU is not to be sold or conveyed separately from the primary dwelling, and (iii) if there is a JADU on the property, either the JADU or primary dwelling shall be occupied

by the owner of record. Proof of recordation of the covenant shall be provided to the city before the city final the building permit.

D. Pursuant to Government Code Section 65852.2(e), the city shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

1. One ADU or JADU per lot with a proposed or existing single-family dwelling if all of the following apply:

- a. The ADU or JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
- b. The space has exterior access from the proposed or existing single-family dwelling.
- c. The side and rear setbacks are sufficient for fire and safety.
- d. The JADU complies with the requirements of Section 65852.22 and with the requirements set forth in subsection E below.

2. One detached, new construction ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU described in subsection (D)(1) above. The ADU shall be no more than eight hundred square feet in size, with a height limit of sixteen feet.

3. One ADU within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. If requested, multiple ADUs shall be allowed, up to the number of ADUs that equals twenty-five percent of the existing multifamily dwelling units in the structure.

4. Not more than two detached ADUs located on a lot that has an existing multifamily dwelling, subject to a height limit of sixteen feet and four-foot rear yard and side setbacks.

E. In accordance with the standards set forth in Government Code Section 65852.22, JADUs shall comply with the following requirements, unless state law is amended to set forth different standards in which case state law standards will govern:

1. A JADU shall be a minimum of two hundred twenty square feet and a maximum of five hundred square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of a JADU.

2. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.

3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.

4. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing single-family dwelling.

5. A JADU shall include an efficiency kitchen which shall include all of the following:

a. A cooking facility with appliances.

b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

6. No additional parking is required for a JADU.

7. The JADU or primary residence shall be occupied by the owner of record.

8. The city shall not issue a building permit until the applicant provides a will serve letter from the local water and sewer provider. Notwithstanding the foregoing, if a private sewage disposal system is being used, the applicant must provide documentation showing approval by the local health officer in lieu of the will serve letter by the local sewer provider.

17.23.040 General requirements and application procedure.

A. Before constructing an ADU or converting an existing structure to an ADU that does not fall under the “building permit approval only” requirements in Section 17.23.030, the applicant shall obtain permits in accordance with the requirements of this section.

B. All ADUs shall satisfy the requirements of the California Building Standards Code, as amended by the city.

C. In accordance with state law, ADUs are an accessory use or an accessory structure to the primary dwelling on the lot. ADUs shall not be considered to exceed the allowable density for the lot.

D. Applications for ADUs shall be completed in accordance with Section 17.03.030 of this Development Code. The application for the ADU must be signed by the owner(s) of the parcel of land.

E. The director of community development or designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this chapter and any other applicable law.

F. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2. The city shall approve the ADU permit within sixty days of receiving the application, or as the deadline required by Government Code Section 65852.2 may be amended from time to time.

G. Where an ADU permit application is submitted with an application for a primary dwelling that is subject to discretionary review under this code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.

H. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction permits prior to the construction of the ADU.

17.23.050 ADU standards.

Except those ADUs approved pursuant to Subsection 17.23.030, ADUs shall comply with the following standards:

A. Location Restrictions. One ADU shall be allowed on a lot with a proposed or existing primary dwelling that is zoned residential.

B. Development Standards.

1. Size Restrictions. If there is an existing primary dwelling, an attached ADU shall not exceed fifty percent of the gross floor area for the primary dwelling. An attached ADU that is proposed with a new primary dwelling shall not exceed one thousand two hundred square feet in floor area. A detached ADU shall not exceed one thousand two hundred square feet in floor area. In no case shall an ADU be less than an “efficiency unit” as defined in Section 17958.1 of Health and Safety Code with respect to square footage.

2. Height Restrictions. ~~An ADU shall not exceed sixteen feet in height.~~ The maximum height of any new ADU shall not exceed the following:

a. Sixteen (16) feet for a detached ADU, except as provided in subparagraphs b and c below.

b. Eighteen (18) feet for a detached ADU on a lot that is within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Public Resources Code Section 21155; or twenty (20) feet if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

c. Eighteen (18) feet for a detached ADU on a lot with an existing or proposed multistory multifamily dwelling.

d. Twenty-five (25) feet or the height limit applicable to the primary dwelling, whichever is less, for an attached ADU.

3. Transfer. An ADU shall not be sold, transferred, or assigned separately from the primary dwelling unless the ADU was built by a qualified nonprofit corporation and meets the additional requirements of Government Code Section 65852.26(a). ADUs ~~but~~ may be rented but ~~The ADU~~ shall not be used for short-term rentals for less than thirty-one days.

4. Setbacks. No setback shall be required for an ADU that is within an existing structure or new ADU that is constructed in the same location and with the same dimensions as an existing structure. For all other ADUs, the required setback from side and rear lot lines shall be four feet. An ADU shall comply with all required front yard setbacks otherwise required by the municipal code except where the application of the front yard setback requirement would not permit construction of an eight hundred (800) square foot ADU that is sixteen (16) feet in height with four-foot side and rear yard setbacks. An ADU in the front yard setback area is only permissible if construction of the same ADU in the rear or side yard is entirely infeasible.

5. Lot Coverage. An ADU shall conform to all lot coverage requirements applicable to the zoning district in which the property is located, except where the application of the lot coverage regulations would not permit construction of an eight hundred square foot ADU that is sixteen feet in height with four-foot side and rear yard setbacks.

6. Historic Resources. An ADU that has the potential to adversely impact any historical resource listed on the California Register of Historic Resources, shall be designed and constructed in accordance with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings” found at 36 CFR 68.3, as amended from time to time. An ADU shall also comply with all local historic register requirements, as well as all objective local requirements, ordinances, or specific plans that pertain to historic resources.

C. Design and Features.

1. Design. The ADU shall have the same design, architecture, colors and materials of the primary dwelling, and shall comply with any objective design standards adopted by the city that are applicable to the zoning district or specific plan area where the ADU is located.

2. Fire Sprinklers. ADUs are required to provide fire sprinklers if they are required for the primary dwelling.

3. An ADU shall have a separate exterior access.

D. Covenant Required. The property owner shall record a declaration of restrictions, in a form approved by the city attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (1) the ADU is to be rented only for terms of thirty days or longer; and (2) the ADU is not to be sold or conveyed separately from the primary dwelling except as described above in Section 17.23.050(B)(3). Proof of recordation of the covenant shall be provided to the city before the city finalizes the building permit.

E. Parking Requirements.

1. In addition to the off-street parking space(s) required for the primary dwelling, one off-street parking space shall be provided for each ADU, except when:

a. The ADU is located within one-half mile walking distance of public transit;

- b. The ADU is located within an architecturally and historically significant historic district;
- c. The ADU is part of a proposed or existing primary dwelling or accessory structure;
- d. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
- e. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.

2. When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

17.23.060 Fees and utility connections.

A. ADUs and JADUs shall have adequate water and sewer services. These services may be provided from the water and sewer points of connection for the primary dwelling and not be a separate set of services.

B. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees, including impact fees set forth in Government Code Section 66000 et seq., except as follows:

- 1. ADUs that are less than seven hundred fifty square feet shall not be subject to impact fees.
- 2. ADUs that are seven hundred fifty square feet or more shall be charged impact fees that are proportional in relation to the square footage of the primary dwelling unit.

C. Prior to receiving a building permit, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the building official.”

Section 11. Environmental Findings. The City Council hereby makes the following environmental findings and determinations in connection with the approval of the Project:

A. Pursuant to Section 21080.17 of the California Public Resources Code, the adoption of the ordinance is statutorily exempt from the California Environmental Quality Act (“CEQA”). Under Public Resources Code Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the State ADU law).

B. In addition, pursuant to the California Environmental Quality Act (“CEQA”) and the City’s local CEQA Guidelines, the City Council has reviewed and considered the Final Environmental Impact Report (“FEIR”) for the General Plan certified by the City Council on April 12, 2005 (State Clearinghouse No. 2003061041), including the impacts and mitigation measures

identified therein. Staff has also reviewed Addendum 2021-01 to the FEIR which was prepared and adopted in connection with the City Council's adoption of the 2021-2029 Housing Element on February 8, 2022. This Ordinance implements one of the programs set forth in the certified Housing Element which the City Council committed to when it adopted the Housing Element. As such, this is an implementing action of an already approved project (adoption of the Housing Element), and no further environmental review is required.

B. To the extent that any further environmental review is required, the City Council finds that none of the conditions in CEQA Guidelines Section 15162 are present to require the preparation of a subsequent EIR or an additional Addendum, and no additional environmental review is required. The adoption of this Ordinance does not result in any new or greater environmental impacts than were previously analyzed, disclosed, and mitigated since the adoption of this Ordinance was contemplated in the programs of the Housing Element. In addition, no new information of substantial importance has surfaced since the certification of the General Plan EIR or the adoption of Addendum 2021-01.

Section 12. HCD Review. In compliance with Government Code section 65852.2(h), the City Clerk is hereby directed to submit a copy of the adopted ordinance to HCD within 60 days after adoption.

Section 13. Severability. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

Section 14. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

Section 15. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula
this 28th day of November, 2023.

Zak Schwank, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 2023-12 was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 14th day of November, 2023, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the 28th day of November, 2023, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk