

ORDINANCE NO. 2024-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLES 5, 8, 15, AND 17 OF THE TEMECULA MUNICIPAL CODE MAKING 1) MINOR REVISIONS TO MASSAGE AND TOBACCO ESTABLISHMENTS OPERATIONAL STANDARDS, 2) CLARIFY LIMITATIONS FOR OUTDOOR VENDORS, 3) AMEND THE DEFINITION OF “NUISANCE” TO INCLUDE “DISORDERLY HOUSE”, 4) IMPLEMENT THE PROVISIONS OF AB 970 RELATED TO STREAMLINED APPROVAL OF ELECTRIC AND HYDROGEN FUELING STATIONS, 5) SPECIFY THAT THE TEMECULA GENERAL PLAN WILL BE USED FOR LAND USE DETERMINATIONS PERTAINING TO ZONING FOR SPECIFIC PLANS NO. 1, 2, 3, 4, 6, 9, 10, AND 12 NOT RIVERSIDE COUNTY ORDINANCE NO. 348, 6) CLARIFY THAT VENDORS/FARMERS MARKETS REQUIRE A MAJOR TEMPORARY USE PERMIT, 7) REMOVE WATER TANKS AS AN APPROVED LOCATION FOR TELECOMMUNICATION FACILITIES, AND 8) MAKE OTHER CLERICAL OR TYPOGRAPHICAL CORRECTIONS, AND MAKE A FINDING OF EXEMPTION UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15061 (B)(3)

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

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

A. City staff identified the need to make minor revisions and clarifications to portions of Title 5 (Business Licenses and Regulations), Title 8 (Health and Safety), Title 15 (Buildings and Construction) and Title 17 (Zoning) of the Temecula Municipal Code.

B. As required by State law, the Planning Commission considered the proposed amendments to Title 17 (Zoning) of the Temecula Municipal Code (“Code Amendments”) on August 7, 2024, 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 of or opposition to this matter.

C. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted PC Resolution No. 2024-14, recommending that the City Council approve the Code Amendments.

D. The City Council, at a regular meeting, considered the Ordinance on September 24, 2024, 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.

E. 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 2. Further Findings. The City Council, in approving the proposed Ordinance, hereby makes the following additional findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

1. The proposed uses are 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 Code Amendments do not change the types of uses allowed in the City. The proposed Code Amendments clarify when the City of Temecula General Plan Land Use and Zoning Designation will be used for specific plans adopted prior to the City’s adopted General Plan Land Use Element. Since the General Plan controls when there is a conflict between a General Plan and Specific Plan or Zoning, then this change is just clarifying the status quo. In addition, the proposed Code Amendments clarify the operational standards of existing land uses and do not increase or decrease the intensity of any use.

2. The proposed uses are in conformance with the goals, policies, programs and guidelines of the elements of the general plan.

The proposed changes to Titles 5, 8, 15, and 17 conform with the goals, policies, programs and guidelines of the elements of the General Plan. The proposed changes modify operational requirements for massage establishments, tobacco shops and outdoor vendors which furthers Policy 5.2 of the Economic Development Element of the Temecula General Plan, which is to “Monitor economic conditions in Temecula in comparison to other locations in California and throughout the nation to determine relative advantages.” The proposed changes implement the requirements of Assembly Bill (AB) 970, which requires the streamlined processing of electric and hydrogen vehicle fueling facilities, which furthers Policy 3.5 of the Air Quality Element of the Temecula General Plan, which is to “Promote the use of alternative clean-fueled vehicles, new transportation technologies, and combustion engine alternatives for personal and business use.” The proposed amendments would clarify that vendors markets require a major temporary use permit and remove water tank as a preferred location for wireless telecommunication facilities which implements Goal 1 of the Community Design Element of the Temecula General Plan which states “Design excellence in site planning, architecture, landscape architecture and signs.” The remaining proposed amendments to the Temecula Municipal Code are minor clarifications and make typographical edits and do not result in an inconsistency between the Temecula Municipal Code and the adopted General Plan.

3. The proposed uses are to be established and maintained in a manner which is consistent with the general plan and all applicable provisions contained therein.

The proposed amendments to Title 17 would clarify that Riverside County Ordinance No. 348 will not be used for specific plan land use determinations and the Temecula General Plan will be used. This will ensure that no inconsistencies arise from discrepancies between previously adopted specific plans and the Temecula General Plan.

Section 3. Environmental Findings. The City Council hereby finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Code Amendments would have a significant impact on the environment. The Code Amendments impose regulations on existing uses, but do not increase the intensity or density of any land use or allow any development where it was not otherwise permitted. The Title 17 amendments clarify that the General Plan land use designation will be used in Specific Plan Nos. 1, 2, 3, 4, 6, 9, 10, and 12 for zoning code determinations and not Riverside County Ordinance No. 348. This is consistent with State law in that if there is a discrepancy between zoning and the General Plan or a Specific Plan and General Plan, the General Plan controls. As such, this change will maintain the status quo in that the General Plan will control. The Community Development Director is hereby directed to file a Notice of Exemption in accordance with CEQA and the State CEQA Guidelines.

Section 4. Subsection 5.22.120(A)(1) of Section 5.22.120(A) (Exemptions) of Chapter 5.22 (Massage and Massage Establishments) of Title 5 (Business Licenses and Regulations) of the Temecula Municipal Code is hereby amended to read as follows (with deletions appearing in strikethrough text and additions appearing in underlined text), with all other provisions of Section 5.22.120 remaining unchanged:

- A. This chapter shall not apply to the following individuals or businesses while engaged in the performance of the duties of their respective professions:
 - 1. Physicians, surgeons, chiropractors, osteopaths, medical professionals and other persons holding a valid certificate to practice the healing arts, ~~except for CAMTC-certified massage therapists, working under their direct supervision who are working at the same location as the licensed person, provided~~ to the extent such persons are performing massage, as defined in this chapter, at a licensed business as part of, and to the extent permitted by, their respective professions. Physicians, surgeons, chiropractors, osteopaths and medical professionals may also hire an independent contractor holding a valid CAMTC certificate to work under their direct supervision to perform massage, as long as the person works at the same location as the physician, surgeon, chiropractor, osteopath and medical professional. Direct supervision, as used in this subsection, requires physicians, surgeons, chiropractors, osteopaths and medical professionals holding a valid certificate to practice the healing arts under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code to be present at the office of the business establishment and immediately available to furnish assistance and direction throughout the performance of the massage. The supervising medical professional is required to be physically present on site. The required presence does not include virtual presence through audio/video real-time communications technology;

Clinical counselors and/or other mental health professionals, and other persons holding a valid certificate to practice the healing arts may not hire an independent contractor to perform massage services under this exemption.

Section 5. Subsection “E” (Locked Items) is hereby added to Section 5.24.080 (Other requirements and prohibitions.) of Chapter 5.24 (Licensure of Tobacco Retailers and Tobacco Shops) of Title 5 (Business Licenses and Regulations) of the Temecula Municipal Code to read as follows with all other provisions of Section 5.24.080 remaining unchanged:

E. Locked Items. All items listed in Section 9.08.040 and all containers of nitrous oxide shall be required to be stored in an area that is not viewable by, nor accessible to (locked), the public in the regular course of business without employee assistance. The size, quantity, and intended or marketed purpose of the items does not modify these requirements.

Section 6. Item 2 (Operations) of Subsection E (Tobacco Shop Requirements) of Section 5.24.120 (Tobacco Shops.) of Chapter 5.24 (Licensure of Tobacco Retailers and Tobacco Shops) of Title 5 (Business License Regulations) of the Temecula Municipal Code is hereby amended to read as follows (with additions appearing in underlined text), with all other provisions of Section 5.24.120 remaining unchanged:

m. Tobacco Flavors. A tobacco shop, or any of the tobacco shop's agents or employees, shall not sell, offer for sale, or possess with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer as defined in Health and Safety Code Section 104559.5. This includes the storage, and/or online sales to include pickup or delivery services of flavored tobacco products.

q. Underage Sale Prohibited. Sale of any tobacco product(s) to a person(s) under the age of twenty-one (21) years of age is prohibited and shall be considered a Class 1 violation in accordance with the provisions of this chapter.

r. Entry of Minors Prohibited. No person under the age of eighteen (18) years of age (minor) shall be permitted in a tobacco shop. An owner, manager, or employee of a tobacco shop shall check the identification of persons who enter the tobacco shop to ensure they are eighteen (18) years of age or older.

Section 7. Subsections “U” “V” and “W” are hereby added to Section 8.60.090 (Operating Standards.) of Chapter 8.60 (Outdoor Vending on Public Property) of Title 8 (Health and Safety) of the Temecula Municipal Code to read as follows (with additions appearing in underlined text), with all other provisions of Section 8.60.090 remaining unchanged:

U. No vendor may obstruct monument signs and/or commercial property storefronts, to include ingress and egress routes.

V. No vendor shall allow vehicles to park, stop or in any way obstruct bicycle lanes, bikeways, or bicycle paths.

W. No vending stand shall exceed ten (10) feet in width, ten (10) feet in length, and ten (10) feet in height, inclusive of signage, umbrellas, streamers or other items for the purpose of identifying or drawing attention to the vending stand.

Section 8. Subsections “AA” and “BB” are hereby added to Section 8.12.020 (Public nuisance defined) of Chapter 8.12 (Nuisances) of Title 8 (Health and Safety) of the Temecula Municipal Code to read as follows (with additions appearing in underlined text), with all other provisions of Section 8.12.020 remaining unchanged:

“AA. Disturbs persons of reasonable sensibilities occupying nearby properties with noise, loud music, loitering, littering, vandalism, urination or defecation, graffiti, partying, ball playing, drug use, and similar disturbances.

BB. Has many ongoing crimes on the property, inside buildings on the property, within fifty (50) feet of the property or to the Right-of-Way, (whichever is greater) adversely affecting the reasonable use of other properties, including but not limited to, drunks, fights, assaults, prostitution, narcotics, thefts of property, robberies.”

Section 9. Chapter 15.24 (Electric Vehicle Charging Station Streamlined Permitting Process) of Title 15 (Buildings and Construction) of the Temecula Municipal Code is hereby amended to read as follows (with additions appearing in underlined text and deletions shown in underlined text), with all other provisions of Chapter 15.24 remaining unchanged:

Chapter 15.24 **Electric Vehicle Charging Station Streamlined Permitting Process—“Streamlined Expedited Review of Electric Vehicle Charging Stations and Hydrogen-Fueling Stations Applications”**

§ 15.24.010 **Purpose.**

§ 15.24.020 **Applicability.**

§ 15.24.030 **Definitions.**

§ 15.24.040 **Permit application and review process.**

§ 15.24.050 **Fees.**

§ 15.24.010 **Purpose.**

The purpose of this chapter is to create an expedited, streamlined ~~electric vehicle charging station~~ permitting process for electric vehicle charging stations and hydrogen-fueling stations that complies with Government Code Sections 65850.7 to achieve and 65850.71 and is timely and cost-effective installations of electric vehicle charging stations.

§ 15.24.020 **Applicability.**

A. This section applies to applications for expedited building permits for electric vehicle charging stations and hydrogen-fueling stations consistent with California Government Code Section 65850.7 and California Government Code Section 65850.71.

B. Electric vehicle charging stations legally established or permitted prior to the effective date of the ordinance codified in this chapter are not subject to the requirements of this

chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of an electric vehicle charging station in such a way as to require a new permit.

§ 15.24.030 **Definitions.**

For the purpose of this chapter, words and terms shall be defined as set forth in this section. Where terms are not defined in this code and are defined in other codes, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this section, such terms shall have ordinary accepted meanings such as the context implies.

“Electric vehicle charging station” or “charging station” means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electric Code, as it read on January 1, 2016, and delivers electricity from a source outside of an electric vehicle into a plug-in electric vehicle.

“Electronic submission” means a submission of an application utilizing email, the internet, and/or facsimile transmission.

“Hydrogen-fueling station” means the equipment used to store and dispense hydrogen fuel to vehicles according to industry codes and standards that is open to the public.

“Service station” means any establishment which offers for sale or sells gasoline or other motor vehicle fuel to the public.

“Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.

§ 15.24.040 **Permit application and review process.**

A. The building official shall adopt a checklist of all application requirements for expedited building permits for electric vehicle charging stations or hydrogen-fueling station. The checklist shall substantially conform to the most current version of the “Plug-In Electric Vehicle Infrastructure Permitting Checklist” found in the “Zero-Emission Vehicles in California: Community Readiness Guidebook” published by the Governor's ~~office~~Office of Planning and Research. The checklist, application form, and any other documents required by the building official shall be published on the city's website and shall allow for electronic submittal of a permit application and associated documentation.

B. Anyone seeking to install an electric vehicle charging station or hydrogen-fueling station at any site within the city shall apply to the building official for an expedited nondiscretionary building permit.

C. An expedited nondiscretionary building permit to install a hydrogen-fueling station is permitted if the station fits on a parcel either zoned for industrial or commercial development and does not contain any residential unit or was not previously developed with a service station.

~~CD.~~ An application for an expedited building permit for an electric vehicle charging station or hydrogen-fueling station, and all associated documentation, ~~may~~ shall be submitted to the building official in person, by mail, or by electronic submission. Electronic signatures may be used in lieu of wet signatures.

~~DE.~~ An application for a hydrogen-fueling station that, in the opinion of the building official, satisfies the information requirements of the checklist adopted by the city shall be deemed complete. An application for an electric vehicle charging station shall be deemed complete if it satisfies the requirements of the checklist adopted by the city or the requirements listed in subsection J.

~~EF.~~ If an application for an expedited building permit for an electric vehicle charging station or hydrogen-fueling station is deemed incomplete, the building official shall provide a written correction notice of the deficiencies and the additional information required to complete the application.

~~FG.~~ If the building official determines that an application for an expedited building permit for an electric vehicle charging station or hydrogen-fueling station is complete, the building official shall review the application. If the building official determines that the proposed charging station meets all health and safety requirements of local, state, and federal law, and would not have a specific, adverse impact upon the public health or safety, the application shall be approved, and a building permit shall be issued.

~~GH.~~ If the building official of the City finds, based on substantial evidence, that a proposed electric vehicle charging station or hydrogen-fueling station could have a specific, adverse impact ~~upon~~ on the public health or safety, the city may require the applicant to apply for an electric vehicle charging station use permit in order to install the proposed charging or fuel station.

~~HI.~~ An application for an electric vehicle charging station or hydrogen-fueling station use permit shall be reviewed by the building official. The building official shall not deny such an application without making written findings, based upon substantial evidence ~~in~~ on the record, that the proposed charging station would have a specific, adverse impact upon the public health or safety which could not feasibly be satisfactorily mitigated or avoided. The written findings required for the rejection of an electric vehicle charging station or hydrogen-fueling station use permit application shall include the building official's basis for rejecting any potentially feasible alternatives that could mitigate or prevent the alleged adverse impact.

J. An application to install an electric vehicle charging station submitted to the building official of the City shall be deemed complete if, after the applicable time period has elapsed, all of the following are true:

1. The building official has not deemed the application complete, consistent with the checklist created by the City pursuant to Government Code section 65850.7(g).

2. The building official has not issued a written correction notice detailing all deficiencies in the application and identifying any additional information explicitly necessary for the building official to complete a review limited to whether the electric vehicle charging station meets all health and safety requirements of local, state, and federal law, consistent with subdivisions (b) and (g) of Government Code section 65850.7.
3. “Applicable time period” for purposes of this paragraph means either of the following:
 - a. Five business days after submission of the application to the City, if the application is for at least 1, but not more than 25 electric vehicle charging stations at a single site.
 - b. Ten business days after submission of the application to the City, if the application is for more than 25 electric vehicle charging stations at a single site.

K. An application to install an electric vehicle charging station shall be deemed approved if the applicable time period described in paragraph (J) has elapsed and all of the following are true:

1. The building official has not administratively approved the application pursuant to Government Code section 65850.7(b).
2. The building official has not made a finding, based on substantial evidence, that the electric vehicle charging station could have a specific adverse impact upon the public health or safety or required the applicant to apply for a use permit pursuant to Government Code Section 65850.7(b).
3. The building official has not denied the use permit pursuant to Government Code section 65850.7(c).
4. An appeal has not been made to the Planning Commission pursuant to Government Code section 65850.7(d).
5. “Applicable time period” for purposes of this paragraph means either of the following:
 - a. Twenty business days after the application was deemed complete, if the application is for at least 1, but not more than 25 electric vehicle charging stations at a single site.
 - b. Forty business days after the application was deemed complete, if the application is for more than 25 electric vehicle charging stations at a single site.

L. Pursuant to Government Code Section 65850.7, the building official's review shall be limited to health and safety issues. Aesthetic concerns, or other items ~~not related~~ unrelated to public health or safety may not be considered.

~~¶~~M. A decision of the building official made pursuant to subsections F through H may be appealed to the planning commission in accordance ~~to~~with the procedures set forth in Section 17.03.090. The planning commission's review shall also be limited to health and safety issues.

~~J-N.~~ Any condition imposed on an application for an expedited building permit ~~or~~for an electric vehicle charging station or a hydrogen-fueling station use permit shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

§ 15.24.050 Fees.

The city council may establish by resolution fees that shall be charged for permits issued under this section.

Section 10. Section 17.01.070 (Relationship to existing specific plans and Riverside Land Use Ordinance.) of Chapter 17.01 (General Provisions) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows (with deletions appearing in strikethrough and additions appearing in underlined text), with all other provisions of Section 17.01.070 remaining unchanged:

The development code shall repeal those portions of the Riverside County Land Use Ordinance formerly adopted by reference by the city. Existing specific plans No. 1, 2, 3, 4, 6, 9, 10, and 12 ~~located within the city that~~ have been approved under the Riverside County Ordinance shall be designated and zoned based upon Table LU-1 (Land Use Designations) of the Land Use Element of the General Plan and Chapter 17.02 (Establishment of Zoning Districts) of this code. All land use determinations shall be at the sole discretion of the Director of Community Development per Section 17.03.020 of this code as specific plans under the provisions of Chapter 17.16. The specific plan shall provide the development regulations for that area. However, if the specific plan does not address a particular standard, use, condition, or technological advancement, then the provisions of this title shall apply.

Section 11. Item 1 (Major Temporary Uses) of Subsection B (Permitted Uses) of Section 17.04.020 (Temporary Use Permits.) of Chapter 17.04 (Permits) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows (with deletions appearing in strikethrough text and additions appearing in underlined text), with all other provisions of Item 1 remaining unchanged:

“i. Outdoor temporary swap meets or auctions, limited to two events per calendar year, not exceeding four consecutive days; and

j. Vendor and/or farmers markets that propose the use of parking stalls, drive isles, entrances or exits, walkways or other methods of travel, pedestrian and vehicular, to and from the site.”

Section 12. Table 17.08.030 (Schedule of Permitted Uses Commercial/Office/Industrial Districts) of Section 17.08.030 (Use regulations.) of Chapter 17.08 (Commercial/Office/Industrial Districts) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as

follows (with deletions appearing in strikethrough text and additions appearing in underlined text), with all other provisions of Table 17.08.030 remaining unchanged:

Table 17.08.030							
Schedule of Permitted Uses Commercial/Office/Industrial Districts							
Description of Use	NC	CC	HT	SC	PO	BP	LI
Massage ¹⁶	P	P	P	P	P	P	-
S							
Sports and recreational <u>or training</u> facility	C	C	C	C	C	C	C

Notes:

9. Subject to the supplemental development standards contained in Table 6.08.010 Chapter 6.04 of this code.
16. Subject to the requirements of Chapter 5.22 of this code.

Section 13. Item 2 of Subsection B of Section 17.40.080 (Planning director approval of telecommunication facilities and antennas.) of Chapter 17.40 (Telecommunication facility and antenna ordinance) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows (with deletions appearing in strikethrough text and additions appearing in underlined text) with all other provisions of Section 17.40.080 remaining unchanged:

2. Antennas mounted on other existing structures, such as ~~water tanks~~, pump stations, utility poles, or ball field lighting. Notwithstanding the above, antennas mounted on existing structures are not limited to commercial or industrial zones;

Section 14. 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 15. 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 16. 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 8th day of October, 2024.

James Stewart, 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. 2024-06 was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 24th day of September, 2024, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the 8th day of October, 2024, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk