

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Luke Watson, Deputy City Manager

DATE: February 28, 2023

SUBJECT: Adopt Ordinance Amending Title 5 and 17 of the Temecula Municipal Code Pertaining to Massage Establishment, Accessory Dwelling Unit, Car Wash, Flag Pole Height Limits, Conditional Use Permits, Parking Garage Standards, Open Space Zoning Designation, Live Entertainment, Alcoholic Beverage Manufacturer, and Active and Passive Recreation and Find that this Ordinance is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15061 (b)(3)

PREPARED BY: Mark Collins, Assistant Planner

RECOMMENDATION: That the City Council adopt an ordinance entitled:

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 5 AND 17 OF THE TEMECULA MUNICIPAL CODE, MAKING MINOR REVISIONS TO MASSAGE ESTABLISHMENTS, ACCESSORY DWELLING UNIT (ADU), CAR WASH, FLAG POLE HEIGHT LIMITS, AND CONDITIONAL USE PERMITS (CUP'S), ESTABLISHES PARKING GARAGE STANDARDS, CLARIFIES PERMITTED USES IN THE OPEN SPACE ZONING DESIGNATION, IMPLEMENTS THE PROVISIONS OF THE LIVE ENTERTAINMENT ORDINANCE (ORDINANCE NO. 2022-06) FOR PLANNED DEVELOPMENT OVERLAY ZONES 4 AND 10, MODIFY THE DEFINITION OF ALCOHOLIC BEVERAGE MANUFACTURER, AND ADD DEFINITIONS FOR ACTIVE AND PASSIVE RECREATION, AND FIND THAT THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061 (B)(3)

SUMMARY OF

ORDINANCE: The proposed ordinance would make amendments to Titles 5 and 17 of the Temecula Municipal Code. Listed below is a summary of the proposed changes to the

Municipal Code, each of which is discussed in greater detail in the analysis section, which follows:

1. Massage – Require all massage establishments to maintain telephone service capable of independent dialing and contacting of 911 emergency services.
2. Massage – Clarify the limits of the exemption provision regarding chair massage.
3. Clarify that Open Space “OS” and Open Space Conservation “OS-C” zoning designations permit specified passive recreation activities.
4. Modify Table 17.14.030 Schedule of Permitted Uses
5. Specific Plan (SP) Numbering – Update SP numbers
6. Update Planned Development Overlay 4 (PDO-4) to comply with Live Entertainment License (Ord. 22-06)
7. Update Planned Development Overlay 10 (PDO-10) to comply with Live Entertainment License (Ord. 22-06)
8. Accessory Dwelling Unit (ADU) Definition – Consolidate terms: guest house, and secondary dwelling unit.
9. Guest House – Clarify that ADU’s will be used in place of Guest House and Secondary Dwelling Unit for residential accessory uses.
10. ADU Equipment and Separate Conveyance – Clarify that all utility equipment must be screened from public view and that ADUs may be separately conveyed under certain circumstances.
11. Conditional Use Permit (CUP) – Require physical posting of CUP’s that permit the onsite consumption of alcohol.
12. Communication and Microwave Installations – Clarify that such uses are not an approved use in any Open Space or Open Space-Conservation Zoning designation.
13. Car Wash – Update the Supplemental Development Standards to further clarify the existing two hundred (200) foot separation from residential zones includes all noise generating equipment and areas of operation.
14. Alcoholic Beverage Manufacturers – Update definition to allow a single food truck as an accessory use, subject to Riverside County Ordinance No. 580.
15. Add definitions for Active and Passive Recreation.

16. Implement Parking Garage Standards – Implement specific requirements for the construction and safe operation of parking garages.
17. Flagpole Height – Add reference for flagpole height limits in commercial zones and clarify that there is a fifty (50) foot maximum height.
18. Modify Table 17.03.010 – Require all modifications to a CUP go before a public hearing (Directors Hearing) minimum.
19. Adult Oriented Business – Correct reference in Table 17.08.030

BACKGROUND: The City of Temecula City Council adopted the Municipal Code in January 1990. Since its adoption, the City Council has periodically made amendments to various sections of the Code to improve its clarity, make corrections and implement state law. The proposed amendments to the Temecula Municipal Code include amendments to Title 5 (Business Licenses and Regulations) and Title 17 (zoning).

Pursuant to Government Code Section 65800, the Planning Commission is required to review and make recommendations to the City Council regarding zoning regulations and amendments to Title 17 Zoning (Development Code) of the Temecula Municipal Code. The changes to Title 5 (Business Licenses and Regulations) of the Temecula Municipal Code of the proposed ordinance fall outside the purview of the Planning Commission, in that it is not an amendment to Title 17. However, staff felt it was important for the Planning Commission to review these proposed changes as this proposed ordinance will place requirements on existing and future massage establishments throughout the City. The item was presented at a public hearing to the Planning Commission on November 16, 2022, and was recommended for adoption with a 4-0 vote.

City staff met with the City Council General Plan Update Ad Hoc Subcommittee on January 24, 2023. (Mayor Pro Tem James Stewart and Councilmember Jessica Alexander).

ANALYSIS

Outlined below is the explanation for the proposed amendments:

1. Massage – Operations Section 5.22.080

Although every business operates with some risk involved, those risks are potentially exacerbated for businesses whose primary function is personal physical contact and body manipulation. Currently, there is no requirement for massage establishments to obtain or maintain a form of telephone service for contacting first responders in the event of an emergency. In effort to address the increased risk to these businesses, the proposed ordinance would require all massage establishments, including exempt massage establishments, to establish and maintain telephone service capable of dialing out to emergency services, specifically 911.

2. Massage – Exemptions Section 5.22.120

The proposed ordinance would clarify that although exempt from the maximum number of traditional massage establishments allowed by Chapter 5.22, all other requirements for massage establishments are applicable and enforceable to include CAMTC certification, and Police Department review. Additionally, the proposed ordinance clarifies that in no case shall a chair massage establishment transition or transfer to a traditional massage establishment. A new massage establishment permit shall be required.

3. Conservation District (OS-C) – Definition update 17.14.020

The proposed ordinance would specify that passive recreation uses are permitted within the OS-C district and clarifies that profit generating activities are not permitted on a more than temporary basis.

4. Permitted Uses – Open Space/Recreation/Conservation Table 17.14.030

The proposed ordinance would clarify that Bicycle Paths are a permitted use within the Open Space and Open Space-Conservation Zoning District.

5. Update Specific Plan Numbers – Approved Specific Plans Section 17.16.070

Update the list of approved specific plans with the correct previous specific plan numbers for Specific Plan No. 1 and Specific Plan No. 8. Additionally, it would add: Specific Plan No. 14 “Uptown Temecula” and Specific Plan No. 15 “Altair.”

6. Live Entertainment – Planned Development Overlay District No. 4 Table 17.22.136B

Ordinance 2022-06 “Live Entertainment” was passed unanimously by the City Council on April 15, 2022, and regulates live entertainment through the issuance of live entertainment licenses from the City. The proposed ordinance would modify Table 17.22.136B to require restaurants with a lounge or live entertainment to comply with the provisions of Chapter 17.10 Supplemental Development Standards, Chapter 9.10 Entertainment License and Chapter 9.11 Regulation of Private Security Operators. Additionally, it would clarify that the restaurant must be a bona fide eating establishment and cannot including dancing.

7. Live Entertainment – Planned Development Overlay District No. 10 Table 17.22.216B

Ordinance 2022-06 “Live Entertainment” was passed unanimously by the City Council on April 15, 2022, and regulates live entertainment through the issuance of live entertainment licenses from the City. The proposed ordinance would modify Table 17.22.216B to require restaurants with a lounge or live entertainment to comply with the provisions of Chapter 17.10 Supplemental Development Standards, Chapter 9.10 Entertainment License and Chapter 9.11 Regulation of Private Security Operators.

Additionally, it would clarify that the restaurant must be a bona fide eating establishment and cannot including dancing.

8. Definition Consolidation – “Accessory Dwelling Unit” 17.23.010

This ordinance would consolidate the definition of guest house and secondary dwelling units into the single definition of Accessory Dwelling Unit (ADU). These secondary and guest dwellings were a permitted by right accessory land use to most residential districts. With the adoption of ADU laws over recent years, the definitions have begun to overlap and differ in key areas causing confusion among citizens, renters, and developers. Consolidating residential habitable accessory structures into the new ADU definition, expands the potential to develop residential units within the City ensuring that the additional units constructed are counted toward Temecula’s Regional Housing Needs Allocation (RHNA).

9. Guest House – Remove Guest House as an approved residential use Table 17.06.030 and 17.06.050(A)

The proposed ordinance removes Guest House as an approved accessory residential land use. With the implementation of ADU laws in recent years there is a need to consolidate these new uses with existing uses to prevent any conflicts. This will be accomplished by using the ADU definition across all accessory residential uses and removing “guest house” and “secondary dwelling unit” as permitted land uses and, in its place, using ADU’s. These ADU’s come with added benefits to the applicant by expanding the properties able to construct such a unit and in reduced fees, along with easing of development standards. Additionally, this change would ensure that the additional units constructed are counted toward Temecula’s Regional Housing Needs Allocation (RHNA).

10. Equipment Screening and Separate Conveyance – Accessory Dwelling Unit Section 17.23.050.

The proposed ordinance would clarify that all utility equipment, including window equipment such as air conditioning units or swamp coolers must be screened from the public right-of-way. Furthermore, in accordance with AB-345, the proposed ordinance allows separate conveyance of an ADU subject to specific requirements and recorded covenants/restrictions.

11. On site posting of Conditional Use Permits – Conditional Use Permit Section 17.04.010

The proposed ordinance would require the physical posting of all Conditional Use Permits that include onsite alcohol consumption to include all conditions of approval and must be presented to law enforcement or city staff upon request.

12. Communication Uses – Table 17.14.030

The proposed ordinance would clarify that Communication and Microwave Installations are not permitted in any Open Space Zoning District.

13. Separation Clarification – Supplemental Development Standards Section 17.10.020

The proposed ordinance would clarify that the existing two hundred (200) foot separation of car wash businesses from residential districts is to include separation from: vacuum equipment, vehicle drying units, air compressors, electric or hydraulic/pneumatic motors, parking aprons and drive isles. The 200-foot separation is from all car wash equipment to the residentially zoned property line.

14. Definition Clarification – Alcoholic Beverage Manufacturing Section 17.34.010

The proposed ordinance would modify the definition of “alcoholic beverage manufacturing” to allow the existing approved accessory uses to include 1 (one) mobile food facility or “food truck” at a permitted alcohol beverage manufacturing establishment, subject to the requirements of Riverside County Ordinance 580.

15. Add Passive and Active Recreation Definition – Definitions 17.34.010

The proposed ordinance would add definitions for active and passive recreational uses. This change is necessary to clarify what activities are permitted or restricted in open space zoning districts.

16. Parking Garages – Implement Standards for Parking Garages

The proposed ordinance would add standards for parking garages. These standards aim to apply what the City has learned regarding parking garages to ensure safe, efficient, and secure parking garages.

17. Flagpole height – Exempt Signs – 17.28.050

The proposed ordinance would add a reference to the height limit for flag poles specified in Section 17.08.050(H), which is fifty (50) feet. Additionally, would amend section 17.28.050 which has an erroneous height limit of seventy-five (75) feet.

18. Planning and Zoning Approval Authority – Table 17.03.010

The proposed ordinance would amend Table 17.03.010 to require all modification applications to CUP’s go before a public hearing. Currently minor modifications can be approved ministerially.

19. Adult Oriented Businesses – Correct a reference in Table 17.08.030

The proposed ordinance would correct the internal Municipal Code reference for adult businesses to prevent future confusion surrounding adult-oriented businesses.

FISCAL IMPACT: The proposed Ordinance does not have a direct fiscal impact, if adopted.

ATTACHMENTS:

1. Ordinance
2. Planning Commission Resolution No. 2022-34
3. Notice of Public Hearing
4. Notice of Exemption