

**STAFF REPORT – PLANNING
CITY OF TEMECULA
PLANNING COMMISSION**

TO: Planning Commission Chairperson and members of the Planning Commission

FROM: Matt Peters, Director of Community Development

DATE OF MEETING: August 7, 2024

PREPARED BY: Mark Collins, Associate Planner

PROJECT SUMMARY: Long Range Planning Project Number LR24-0005, Amending Titles 5, 8, 15, and 17 of the Temecula Municipal Code as detailed in Ordinance “2024-__” attached here as Exhibit A.

RECOMMENDATION: Adopt a Resolution recommending that the City Council adopt an Ordinance amending Titles 5, 8, 15, and 17 of the Temecula Municipal Code.

CEQA: Categorically Exempt
CEQA Guidelines Section 15061 (b)(3)

BACKGROUND SUMMARY

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, and to make necessary corrections or changes. The proposed amendments to the Temecula Municipal Code include amendments to Title 5 (Business Licenses and Regulations), Title 8 (Health and Safety), Title 15 (Buildings and Construction) and Title 17 (Zoning). The proposed amendments do not result in an increase in the intensity or density of any land use above what is currently allowed in accordance with the Municipal Code. 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 (Development Code) of the Temecula Municipal Code. Although not required to be reviewed by the Planning Commission the proposed amendments to Titles 5, 8, and 15 will be considered by the City Council but are included in the attached draft ordinance to provide additional information to the Planning Commission.

This proposed Ordinance was presented to the Planning Commission Municipal Code Maintenance Subcommittee on July 17th and the City Council General Plan Update Subcommittee on July 23rd, the subcommittees were supportive of the changes with additional language related

to massage establishment exemptions and what constitutes a major and minor Temporary Use Permit (TUP). Staff amended the language accordingly.

Listed below is a summary of the proposed changes to Title 5, 8, 15, and 17 of the Municipal Code, each of which is discussed in greater detailed in the analysis section, which follows:

Changes to Title 5:

1. Massage and Massage Establishments – Amend Section 5.22.120 (Exemptions), to remove language allowing all persons holding a valid certificate to practice the healing arts to supervise massage personnel. This exemption clarifies that clinical counselors and other mental health professionals may not supervise massage therapists.
2. Licensure of Tobacco Retailers and Tobacco Shops – Amend Section 5.24.080 (Other requirements and prohibitions) to specify that spray paint, permanent marking devices (paint pens), and nitrous oxide containers shall be kept away from customers in a locked cabinet.
3. Licensure of Tobacco Retailers and Tobacco Shops – Amend Section 5.24.120 (Tobacco Shops) to further clarify that online flavored tobacco sales are prohibited in store, online and that storage of such items is prohibited. Additionally, would further clarify that sales of tobacco or tobacco products to persons under twenty-one (21) years of age is prohibited.

Changes to Title 8:

4. Outdoor Vending – Add additional language to Chapter 8.60 (Outdoor Vending on Public Property) for vendors to specify that bike lanes cannot be blocked by customer vehicles, vending stands cannot block or obstruct storefronts and signage as well as establish a maximum size for such vending stands.
5. Public Nuisance – Add “Disorderly House” to the definition of “Public Nuisance” to specify that certain activities are considered a nuisance and subject to abatement per the requirements of this Code.

Changes to Title 15:

6. Electric Vehicle Charging Stations – Amend Chapter 15.24 (Streamlined Expedited Review of Electric Vehicle Charging Stations and Hydrogen Fueling Stations Applications) to comply with Assembly Bill 970 (AB 970).

Changes to Title 17:

7. Relationship of existing specific plans and Riverside County Land Use Ord. No. 348 – Amend Section 17.01.070 to add language specifying that the City’s General Plan Land Use and associated zoning designation would be used when Ord. No. 348 is referenced as it relates to land use and development standards in specific plans with such references.

8. Major Temporary Uses – Amend Section 17.04.020 to specify that vendor and/or farmers markets that occupy parking stalls, drive isles, or other travel routes will require a major TUP.
9. Commercial/Office/Industrial Districts – Make a correction to footnote #9 on Table 17.08.030 to reference Table 6.08.010 (Animal Keeping Standards), and add a reference to Chapter 5.22 (Massage) for such establishments.
10. Telecommunications Facility and Antenna’s – Remove water tanks as a suggested or allowed location for antenna placement.

ANALYSIS

Outlined below is the explanation for the proposed amendments:

1. Massage – Exemptions Section 5.22.120(A)(1)

There have been ongoing requests for use of the exemptions from the requirements of Chapter 5.22 (Massage and Massage Establishments) for clinical counselors and other mental health professionals. The proposed ordinance would amend the exemptions to clarify that clinical counselors and other mental health professionals are not permitted to supervise massage therapists.

2. Tobacco Shops – Prohibitions Section 5.24.080

The proposed ordinance would clarify that tobacco shops that sell nitrous oxide containers, spray paint and all items listed in Section 9.08.040 (Storage or display of aerosol paint containers and marking pens) shall be kept under lock and key and not be accessible to customers without assistance.

3. Tobacco Shops – Operations Section 5.24.120(E)(2)

There has been some confusion among businesses as to the prohibition of flavored tobacco products in online settings. The proposed ordinance would further clarify that online sale, delivery, pickup, storage or any other method of selling or providing flavored tobacco products is prohibited.

Currently the Municipal Code refers to State Law regarding prohibition of sale to minors. As the intent of regulating tobacco is to expressly prohibit such activities this ordinance would add language that clarifies that underage sale is prohibited by the Temecula Municipal Code.

4. Outdoor Vending on Public Property – Operating Standards Section 8.60.090

As the number of vendors on both public and private property has increased, deficiencies within our code related to vendors interaction with existing “brick and mortar” businesses as well as parking were identified during the operation of some such vendors. In an effort to ensure the successful operation of both establishments, the proposed ordinance would clarify that outdoor vendors on public property cannot obstruct signage or entryways of existing businesses, prohibit vehicles parking within or obstructing a bike lane, and lastly clarify the size allowed for vendors on public property.

5. Nuisances – Public Nuisance Defined Section 8.12.020

Staff identified the need to update the definition of “Public Nuisance” based on the required inclusion of what typically are commercial uses within residential zoning districts. Specifically, the definition will clarify that certain bodily functions, activities, behaviors of patrons or staff constitute a public nuisance. Additionally, the definition would clarify that establishments that have ongoing or continual crime or criminal activity occurring within or surrounding the property would be subject to abatement and/or administrative actions.

6. Electric & Hydrogen Fueling Stations – Streamlined Application Chapter 15.24

Assembly Bill No. 970 was signed into law on October 8, 2021, and became effective January 1, 2023. The bill requires that applications for such fueling stations be deemed complete within 5 or 10 business days (dependent upon the number of fueling stations proposed). All such applications will be deemed approved if the building official has not made a finding that the proposed fueling stations could have an adverse impact on the public health and safety, within 20 or 40 days (dependent upon number of fueling stations proposed), and no appeal has been filed.

7. General Plan relationship to County Ord. No. 348 – General Provisions Chapter 17.01

Prior to incorporation, there were several Specific Plans (Nos. 1, 2, 3, 4, 6, 9, 10, and 12) under development that were entitled by Riverside County and used the County’s Ord. No. 348 for development standards, land uses, etc. The City has long since adopted its own General Plan Land Use Designations and Zoning, which are kept current through continual monitoring. The previously adopted specific plans refer to copies of Ord. No. 348 that were in place at the time of adoption, and utilize said document, which in some cases were adopted forty (40) years ago. This presents concerns as the standards and land uses have changed significantly in that time. This change would clarify that in instances where a specific plan does not identify the zoning for a property, the General Plan land use designation would control and not Riverside Ord. No. 348.

8. Temporary Use Permits – Major Temporary Uses Section 17.04.020

The City of Temecula authorizes Temporary Use Permits (TUP’s) in two categories, major and minor. Currently, “farmers markets” and “vendor markets” are not specifically called out within the Temecula Municipal Code as a minor or major temporary use. This proposal would specify that farmers or vendors markets/farmers market that occupy parking stalls,

utilize drive isles or similar shall be classified as a major temporary use based upon their similar nature to other major TUP's classified as the same.

9. Commercial/Office/Industrial Districts – Use Regulations Table 17.08.030

The proposed ordinance would correct footnote #6 to refer to Table 6.08.010 and add footnote #16 specific to Massage which specifies that such establishments shall comply with Chapter 5.22 (Massage), of this Code.

10. Telecommunication Facilities – Location Section 17.40.080

As the need for fast, reliable, and cost-effective wireless telecommunication continues to grow, so does the need for support facilities. Staff have observed an increase in the number of these telecommunication facilities placed upon water tanks, reservoirs and similar structures in surrounding communities. Such uses can expand without the approval of the City due to Federal Regulations related to the colocation requirements for telecommunication facilities. Presently the City allows telecommunication facilities at water tanks and reservoirs within the City. The proposed ordinance would remove water tanks as an authorized location for wireless telecommunication facilities.

LEGAL NOTICING REQUIREMENTS

Notice of the public hearing was published in the *Press Enterprise* on July 27, 2024.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act, the proposed project has been deemed to be categorically exempt from further environmental review.

This ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility the proposed ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). 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, 4, 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. Staff recommends that a Notice of Exemption be prepared and filed in accordance with CEQA and the State CEQA Guidelines.

- ATTACHMENTS:**
1. PC Resolution
 2. Exhibit A- Draft City Council Ordinance
 3. Notice of Public Hearing