

**ORDINANCE NO. 2023-**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 2022-03, ESTABLISHING EMERGENCY REGULATIONS PURSUANT TO GOVERNMENT CODE SECTION 65858 ON URBAN LOT SPLITS AND HOUSING UNITS BUILT IN ACCORDANCE WITH SENATE BILL 9, AND MAKING A DETERMINATION OF EXEMPTION PURSUANT TO GOVERNMENT CODE SECTION 65852.21(J) AND 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.**        **Prior Ordinance.** On February 22, 2022, the City Council adopted Interim Urgency Ordinance No. 2022-03 establishing emergency regulations pursuant to Government Code Section 65858 on urban lot splits and housing units built in accordance with Senate Bill 9. That ordinance has an initial term of forty-five (45) days, which the Council extended for an additional ten (10) months and fifteen (15) days on March 22, 2022. Interim Urgency Ordinance No. 2022-03 is scheduled to expire on February 21, 2023.

**SECTION 2.**        **Legislative Findings.** The City Council of the City of Temecula does find, determine, and declare that:

A. California state law allows a City to adopt an interim ordinance that imposes temporary restrictions on the approval of land use entitlements that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body or planning commission intends to study within a reasonable time. Pursuant to California Government Code Section 65858, an interim urgency zoning ordinance must be adopted by not less than a four-fifths vote of the City Council and is effective for forty-five (45) days from the date of its adoption.

B. The City Council may consider up to two (2) extensions of Interim Urgency Ordinance No. 2022-03 pursuant to the legal requirements provided in Government Code Section 65858. The City Council may initially extend Interim Urgency Ordinance No. 2022-03 by up to ten (10) months and fifteen (15) days. Then, the City Council may extend Interim Urgency Ordinance No. 2022-03 for one (1) subsequent year. Both extensions require a four-fifths vote of the City Council.

C. On September 16, 2021 California Governor Gavin Newsom signed SB 9, entitled the “California Home Act”, into law, which establishes a series of new regulations to allow for ministerial approval of two units on parcels located in single-family residential zones as outlined in Government Code Sections 65852.21 and 66411.7. SB 9 took effect on January 1, 2022.

D. SB 9 requires cities to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone, if the two-unit or subdivision project meets certain statutory criteria. SB 9 specifies that proposed projects and subdivisions cannot be proposed in prohibited locations under Government Code Section 65913.4(a)(6)(B)-(K), such as in an earthquake fault zone, lands under conservation easement, a federally designated flood plain, and high fire hazard severity zones as defined under state law.

E. SB 9 further restricts the standards and regulations that local agencies may impose on qualifying two-unit or subdivision projects. In addition, SB 9 permits a local agency to deny a proposed two-unit or subdivision project only if the agency makes a written finding based on preponderance of the evidence that the proposed project would have a specific, adverse impact upon public health and safety or the physical environment, which is a very high standard for municipalities to meet under the statute.

F. Some parcels within the City are within high fire hazard severity zones, or other locations where increased density may cause safety concerns. The City has substantial interests in protecting the community against these hazards. Unregulated or disorderly development represents an ever-increasing and true threat to the health, welfare and safety of the community.

G. SB 9 specifically authorizes local agencies to impose objective zoning, subdivision, and design standards consistent with the bill's provisions, and to adopt an ordinance to implement its provisions. The default standards contained in the new state law lack sufficient objective zoning, subdivision, and design standards to preserve the health, welfare and safety of the community. The City of Temecula desires to clarify the objective zoning and design standards that will apply to the ministerial review of qualifying urban lot splits and residential developments in the City's single-family residential zones.

H. The City Council is concerned that under the City's current zoning standards and current general plan policies, the approval of qualifying urban lot splits and residential developments pursuant to SB 9 might cause a disproportionate public health, safety and welfare impact to the City of Temecula community and to its residents – including potential detrimental impacts on vehicular and pedestrian safety, emergency response, and housing affordability – without compensating benefits to the community.

I. The City Council finds that studies need to be conducted to determine the proper location, concentration, regulations, and other land use regulatory controls that need to be in place in order to ensure that the approval of qualifying urban lot splits and residential developments pursuant to SB 9 does not burden the City and its residents and that the procedures for allowing such uses need to be studied to enable the City to address and mitigate potential burdens on the communities affected by these developments.

J. The City Council finds that in order to best protect the immediate threat to the public health, safety, and welfare, it is necessary for the City to immediately study and analyze the implications of approving qualifying urban lot splits and residential developments pursuant to

SB 9 in the City. To accomplish this, the City Council imposed, on an urgency basis, emergency regulations related to urban lot splits and residential developments proposed pursuant to SB 9.

K. The City Council now finds that it is necessary to extend the emergency regulations.

L. These emergency regulations will allow City staff, the City Council, property owners, and the people of the City of Temecula sufficient time to analyze the burdens that urban lot splits and residential developments proposed pursuant to SB 9 will have on the City so that the appropriate land use regulatory controls and zone changes can be adopted if needed. During this period, the City will be able to analyze their potential impacts on the public health. The City Council finds that these studies will help the City Council and the City's Planning Department determine how best to prevent impacts to the public health, safety and welfare. The City Council further finds that these emergency regulations will allow time to evaluate the City's General Plan designations and policies, zoning measures or development standards and develop appropriate regulations for qualifying urban lot splits and residential developments in the City to achieve a reasonable level of assurance that there will not be serious negative impacts to the overall community and ensure positive outcomes for the City's residents, business community, property owners, and developers.

M. The City Council finds that it is necessary that this Interim Urgency Ordinance take effect immediately as there is a current and immediate threat to the public health, safety and welfare. Without this Interim Urgency Ordinance, urban lot splits and residential developments proposed pursuant to SB 9 may be established in the City that may be in conflict with regulations ultimately adopted. Without this Interim Urgency Ordinance, such urban lot splits and residential developments may be allowed to develop within the City that are incompatible with surrounding neighborhoods. Therefore, a current and immediate threat to the public safety, health and welfare exists.

N. For the reasons specified above and all the evidence in the record, the City Council finds that there is a current and immediate threat to the public health, safety and welfare caused by the approval of qualifying urban lot splits and residential developments pursuant to SB 9 in the City, and that the approval of any entitlement to allow such type of use would constitute a current and immediate threat to the public health, safety, and welfare of the residents of the City.

**SECTION 3.**            **Compliance with Government Code Section 65858(d).** Government Code Section 65858(d) requires that ten days prior to the expiration or extension of any interim zoning ordinance, the City Council must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance. On January 10, 2023, the City Council issued this report.

**SECTION 4.**            **Adoption as an Interim Urgency Zoning Ordinance.** This Ordinance is adopted as an interim urgency zoning ordinance pursuant to the provisions of Government Code Section 65858(a), and shall be effective immediately upon its adoption. Based upon the findings set forth in Section 2 of this Interim Urgency Ordinance, the City Council finds and determines that the adoption of this Interim Urgency Ordinance as an urgency ordinance is

necessary for the immediate preservation of public health, safety, and welfare pursuant to the requirements of Government Code Sections 65858(a) and 36937(b).

**SECTION 5.**        **Emergency Regulations Extended.** The emergency regulations enacted by the City of Temecula pursuant to Interim Urgency Ordinance No. 2022-03 are hereby extended pursuant to Government Code Section 65858 for an additional year so as to extend these regulations until and through February 21, 2024. The urgency ordinance hereby extends emergency regulations of urban lot splits and housing units built in accordance with Senate Bill 9.

**SECTION 6.**        **Term.** This Interim Urgency Ordinance shall take effect immediately upon adoption, and this Interim Urgency Ordinance shall expire, and the emergency regulations established hereby shall terminate on February 21, 2024. The City Council shall retain the authority to terminate or to limit the scope of the emergency regulations at any time.

**SECTION 7.**        **CEQA Finding.** The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Interim Urgency Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that this Interim Urgency Ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council’s action of adopting this Interim Urgency Ordinance and the effects derivative from that adoption are exempt from the application of CEQA pursuant to State CEQA Guideline Section 15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)). This Interim Urgency Ordinance will provide temporary emergency regulations related to SB 9 Development Projects and Urban Lot Splits in the City in order to protect the public health, safety, and general welfare, and will thereby serve to avoid potentially significant adverse environmental impacts during the term of the emergency regulations. There is no possibility that adopting this Interim Urgency Ordinance will have a significant effect on the environment. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations and no environmental analysis is required. Furthermore, this Interim Urgency Ordinance is exempt from the CEQA pursuant to Government Code Section 65852.21(j). The Community Development Director shall prepare and file a Notice of Exemption for this Interim Urgency Ordinance.

**SECTION 8.**        **Planning Studies.** City staff shall continue the studies commenced pursuant to Interim Urgency Ordinance No. 2022-03 that they deem necessary and appropriate to make a recommendation to this City Council regarding the structuring of the General Plan, zoning and other necessary regulatory controls over SB 9 Development Projects within the City of Temecula.

**SECTION 9.**        **Effect of Ordinance.** This Interim Urgency Ordinance is intended to supersede any ordinance or resolution of the City of Temecula in conflict with the terms of this Interim Urgency Ordinance; provided, however, that nothing contained in this Interim Urgency Ordinance is intended to nor shall be construed to impair the prosecution or other enforcement action for violations of such ordinances.

**SECTION 10.**      **Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Interim Urgency Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not

affect the validity of the remaining portions of this Interim Urgency Ordinance. The City Council hereby declares that it would have adopted this Interim Urgency Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 11.**      **Effective Date.** This Interim Urgency Ordinance shall take effect immediately upon its passage. It shall be of no further force or effect on February 22, 2024.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula on this 24<sup>th</sup> day of January, 2023.

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Zak Schwank, Mayor

ATTEST:

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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-     was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 24<sup>th</sup> day of January, 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     day of     ,     , by the following vote:

AYES:                    COUNCIL MEMBERS:  
NOES:                    COUNCIL MEMBERS:  
ABSTAIN:                COUNCIL MEMBERS:  
ABSENT:                 COUNCIL MEMBERS:

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Randi Johl, City Clerk