

## ORDINANCE NO. 20-

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO ADD A DEFINITION OF SHORT-TERM RENTALS AND ADDING SHORT-TERM RENTALS TO THE USE REGULATION TABLE, AND FINDING THAT THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO 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 revisions and clarifications to portions of Title 17 (Zoning) of the Temecula Municipal Code.

B. The Planning Commission considered the proposed amendments to Title 17 (Zoning) of the Temecula Municipal Code (“Ordinance”) on June 5, 2019, 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 Resolution No. 19-17, recommending that the City Council approve the Title 17 amendments.

D. The City Council, at a regular meeting, considered the Ordinance on January 14, 2020, 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 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 to Title 17 of the Temecula Municipal Code do not propose any land use that is inconsistent with the Temecula General Plan. Short-term rentals are an unpermitted use under the City's permissive zoning code as well as the General Plan's residential use descriptions. The amendments update Title 17 to include a definition of short-term rentals and to expressly identify short term rentals as an unpermitted use in the City which is consistent with the General Plan.

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

The proposed short-term rental definition, as well as the amendment that will further clarify that short-term rentals are an unpermitted use in the City is consistent with Goal 5 of the Land Use Element of the Temecula General Plan, which is to ensure "A land use pattern that protects and enhances residential neighborhoods." The proposed short-term rental definition, as well as the proposed amendment will expressly identify short-term rentals as an unpermitted use, is consistent with the residential uses description of in the Land Use Element of the Temecula General Plan, "Residential uses are intended to be the principal and dominant use within each of the residential designations."

3. 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 City currently prohibits short term rentals in residential zones because this use is not identified as a permitted or conditionally permitted use in the City. The proposed amendment that will add a short-term rental definition, and that will expressly identify short term rentals as a prohibited use in the City is consistent with the Temecula Municipal Code and the adopted General Plan.

**Section 3. Further Findings.** The City operates under a permissive zoning code. Temecula Municipal Code Section 17.01.080 provides that "[n]o person shall use any premises except as specifically permitted by and subject to the regulations and conditions of this development code." Under a permissive zoning code "any use not enumerated in the code is presumptively prohibited." (*City of Corona v. Naulls*, 166 Cal.App.4th 418, 425, 433 (2008).) "Where a particular use of land is not expressly enumerated in a city's municipal code as constituting a permissible use, it follows that such use is impermissible." (*Id.*) The omission of any particular land use from local zoning regulations is the equivalent of an express ban unless a designated official finds that the proposed use is substantially the same in character and intensity as those land uses listed in the code. (*Id.* at 433-436.) Table 17.06.030 of the Temecula Municipal Code identifies the uses that are specifically permitted in residential districts and under this permissive zoning scheme, if a use is not listed, it is prohibited. Staff has consistently interpreted the City's Municipal Code as banning short term rentals as this use is not expressly identified as a permitted or conditionally permitted use in Table 17.06.030. Given the recent proliferation of short term rentals that are operating in violation of the Temecula Municipal Code, the City Council finds that it is necessary to now expressly prohibit short term rentals. This express prohibition reaffirms the City's longstanding prohibition on short-term rentals.

**Section 4. 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 proposed ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). The proposed Municipal Code amendments clarify that short term rentals are an unpermitted use in the City (they are already prohibited under the City’s permissive zoning). These amendments do not result in any increase in the intensity or density of any land use above what is currently allowed. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

**Section 5.** Section 17.34.010 (Definitions and illustrations of terms.) of Chapter 17.34 (Definitions of Terms) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows with all other definitions remaining unchanged:

““Short-term rental” shall mean the rental of a dwelling unit (in whole or in part), accessory structure, and/or a recreational vehicle located upon a parcel or a portion thereof, by owner(s) or lessee(s) to another person or group of people for occupancy, dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days.

A short-term rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either verbally or in writing to permit the occupant(s) of the owner(s) or lessee(s) short-term rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

The rental of units within city-approved hotels, motels, bed and breakfasts, community care facilities, and social care facilities shall not be considered to be a short-term rental.”

**Section 6.** Table 17.06.030 (Residential Districts) of Section 17.06.030 (Use regulation) of Chapter 17.06 (Residential Districts) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended as follows (with additions appearing in underlined text), with all other provisions of Table 17.06.030 remaining unchanged:

| Table 17.06.030<br>Residential Districts |    |    |    |     |     |    |   |   |                    |
|--|----|----|----|-----|-----|----|---|---|--------------------|
| Description of Use                       | HR | RR | VL | L-1 | L-2 | LM | M | H | HR-SM <sup>9</sup> |
| Construction trailers <sup>5,6</sup>     | P  | P  | P  | P   | P   | P  | P | P | P                  |
| <u>Short-term rentals</u>                | =  | =  | =  | =   | =   | =  | = | = | =                  |

**Section 7. 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 8. 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 9. 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 14<sup>th</sup> day of January, 2020.

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James Stewart, 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. 20-        was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 14<sup>th</sup> day of January, 2020, 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     , 2020, by the following vote:

AYES:                   COUNCIL MEMBERS:

NOES:                   COUNCIL MEMBERS:

ABSTAIN:               COUNCIL MEMBERS:

ABSENT:                COUNCIL MEMBERS:

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Randi Johl, City Clerk