

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO DELETE CERTAIN SUBSECTIONS OF SECTION 17.06.050 PERTAINING TO ACCESSORY DWELLING UNITS, ESTABLISHING A NEW CHAPTER 17.23 PERTAINING TO ACCESSORY DWELLING UNITS, AMENDING TABLE 17.24.040 REGARDING PARKING REQUIREMENTS, AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

Section 1. Effective January 1, 2020, Senate Bill 13 (“SB 13”), Assembly Bill 68 (“AB 68”), and Assembly Bill 881 (“AB 881”) amended Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”). In the absence of a State-compliant ordinance on January 1, 2020, the City’s existing ADU regulations are null and void pursuant to Government Code Section 65852.2(a)(4), and the City would then be required to approve any ADU that meets minimal State criteria. Unless the City adopts this ordinance, the City is required to either approve ADUs in locations and under standards that may have severe negative impacts on the surrounding community.

Section 2. Procedural Findings. The City Council of the City of Temecula does hereby find, determine, and declare that:

A. The Planning Commission considered this Ordinance on February 19, 2020, at a duly noticed public hearing, as prescribed by law, at which time City Staff and interested persons had an opportunity to and did testify either in support of or against this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2020-06, recommending approval of the Ordinance by the City Council.

C. The City Council, at a regular meeting, considered the Ordinance on April 28, 2020, at a duly noticed public hearing, as prescribed by law, at which time City Staff and interested persons had an opportunity to and did testify either in support or against this matter.

D. 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 3. Findings. In approving the proposed Municipal Code amendment, as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code, the City Council hereby makes the following findings that the Ordinance is consistent with the General Plan as follows:

- A. 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, and is supported by the following policy:
 - a. Land Use Element Policy 1.2 Promote the use of innovative site planning techniques that contribute to development of a variety of residential product styles and designs, including housing suitable for the community’s labor force.
- B. The proposed use is in conformance with the goals, policies, programs and guidelines of the elements of the general plan and is supported by the following policy:
 - a. Housing Element Policy 1.2 Encourage residential development that provides a range of housing types in terms of cost, density, and type, and presents the opportunity for local residents to live and work in the same community by balancing jobs and housing types.
- C. 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 and is supported by the following policy:
 - a. Housing Element Policy 3.3 Periodically review City development standards to ensure consistency with the General Plan and to ensure high-quality affordable housing.

Section 4. Table 17.06.030 (Residential districts) in Section 17.06.030 (Use regulations.) of Chapter 17.06 (Residential Districts) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to amend the row entitled “Accessory dwelling units” as follows, with all other provisions of Table 17.06.030 remaining unchanged.

| Description of use | HR | RR | VL | L-1 | L-2 | LM | M | H | HR-SM ⁹ |
|--------------------------|----|----|----|-----|-----|----|---|---|--------------------|
| Accessory dwelling units | P | P | P | P | P | P | P | P | P |

Section 5. Table 17.06.050A (Accessory Structures Setbacks for the HR, RR, VL, L-1, L-2, LM, M and H Zoning Districts) in Section 17.06.050 (Special use standards and regulations) of Chapter 17.06 (Residential Districts) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to delete the row “Accessory dwelling unit”, including footnotes 4 and 6 to Table 17.06.050A, with all other provisions of Table 17.06.050A remaining unchanged.

Section 6. Subsection L (Accessory Dwelling Units.) of Section 17.06.050 (Special use standards and regulations) of Chapter 17.06 (Residential Districts) of Title 17 (Zoning) of the

Temecula Municipal Code is hereby deleted in its entirety, with the remaining subsections to be re-lettered in consecutive order.

Section 7. Chapter 17.23 (Accessory Dwelling Units) is hereby added to Title 17 (Zoning) of the Temecula Municipal Code to read as follows:

“CHAPTER 17.23 ACCESSORY DWELLING UNITS

Section 17.23.010 Purpose and Applicability.

Section 17.23.020 Definitions.

Section 17.23.030 Projects Exempt - Building Permit Approval Only.

Section 17.23.040 General Requirements and Application Procedure.

Section 17.23.050 ADU Standards.

Section 17.23.060 Fees and Utility Connections.

Section 17.23.010 Purpose and Applicability.

The purpose of this chapter is to implement the requirements of Government Code Sections 65852.2 and 65852.22 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units in a manner that encourages their development but simultaneously minimizes impacts on traffic, parking, density, and other areas where the City is still permitted to exercise local control.

Section 17.23.020 Definitions.

“Accessory Dwelling Unit” or “ADU” has the same meaning ascribed in Government Code section 65852.2, as the same may be amended from time to time.

“Attached ADU” means an ADU that is constructed as a physical expansion (i.e. addition) of the Primary Dwelling and shares a common wall with the Primary Dwelling.

“Detached ADU” means an ADU that is constructed as a separate structure from the Primary Dwelling, which does not share any walls with the Primary Dwelling.

“Existing Structure” means an existing single-family dwelling or other accessory structure that can be safely converted into habitable space under the California Building Standards Code, as amended by the City, and other applicable law.

“Junior Accessory Dwelling Unit” or “JADU” has the same meaning ascribed in Government Code section 65852.22, as the same may be amended from time to time.

“Primary Dwelling”, for purposes of this chapter, means the existing or proposed single-family dwelling on the lot where an ADU would be located.

“Public Transit”, for purposes of this chapter, has the meaning ascribed in Government Code Section 65852.2(j), as the same may be amended from time to time.

Section 17.23.030 Projects Exempt - Building Permit Approval Only

A. An applicant shall not be required to submit an application for an ADU or JADU permit under this chapter, and may instead seek building permit approval for an ADU or JADU that satisfies the requirements of Government Code Section 65852.2(e)(1), as the same may be amended from time to time, and the California Building Standards Code, as amended by the City.

B. An ADU or JADU approved by a building permit only process shall be rented only for terms of 31 days or longer.

C. The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the ADU or JADU is to be rented only for terms of 31 days or longer, unless State law and the City's Municipal Code are both amended to allow short-term rentals; (ii) the ADU or JADU is not to be sold or conveyed separately from the Primary Dwelling, and (iii) if there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record. Proof of recordation of the covenant shall be provided to the City before the City finalizes the building permit.

D. Pursuant to Government Code section 65852.2(e), the City shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

1. One ADU or JADU per lot with a proposed or existing single-family dwelling if all of the following apply:

a. The ADU or JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

b. The space has exterior access from the proposed or existing single-family dwelling.

c. The side and rear setbacks are sufficient for fire and safety.

d. The JADU complies with the requirements of Section 65852.22 and with the requirements set forth in subsection E below.

2. One detached, new construction ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU described in paragraph 1 above. The ADU shall be no more than 800 square feet in size, with a height limit of 16 feet.

3. One ADU within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. If requested, multiple ADUs shall be allowed, up to the number of ADUs that equals 25 percent of the existing multifamily dwelling units in the structure.

4. Not more than two Detached ADUs located on a lot that has an existing multifamily dwelling, subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

E. In accordance with the standards set forth in Government Code section 65852.22, JADUs shall comply with the following requirements, unless State law is amended to set forth different standards in which case State law standards will govern:

1. A JADU shall be a minimum of 220 square feet and a maximum of 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of a JADU.

2. A JADU must be contained entirely within the walls of the existing or proposed single-family dwelling.

3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a JADU.

4. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing single-family dwelling.

5. A JADU shall include an efficiency kitchen which shall include all of the following:

- a. a cooking facility with appliances.
- b. a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

6. No additional parking is required for a JADU.

7. The JADU or Primary Residence shall be occupied by the owner of record.

8. The City shall not issue a building permit until the applicant provides a will serve letter from the local water and sewer provider. Notwithstanding the foregoing, if a private sewage disposal system is being used, the applicant must provide documentation showing approval by the local health officer in lieu of the will serve letter by the local sewer provider.

Section 17.23.040 General Requirements and Application Procedure.

A. Before constructing an ADU or converting an Existing Structure to an ADU that does not fall under the “building permit approval only” requirements in Section 17.23.030, the applicant shall obtain permits in accordance with the requirements of this section.

B. All ADUs shall satisfy the requirements of the California Building Standards Code, as amended by the City.

C. In accordance with State law, ADUs are an accessory use or an accessory structure to the Primary Dwelling on the lot. ADUs shall not be considered to exceed the allowable density for the lot.

D. Applications for ADUs shall be completed in accordance with Section 17.03.030 of this Development Code. The application for the ADU must be signed by the owner(s) of the parcel of land.

E. The Director of Community Development or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this chapter and any other applicable law.

F. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2. The City shall approve the ADU permit within 60 days of receiving the application, or as the deadline required by Government Code Section 65852.2 may be amended from time to time.

G. Where an ADU permit application is submitted with an application for a Primary Dwelling that is subject to discretionary review under this Code, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to discretionary review.

H. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit and any other applicable construction permits prior to the construction of the ADU.

Section 17.23.050 ADU Standards.

Except those ADUs approved pursuant to Subsection 17.23.030, ADUs shall comply with the following standards:

A. Location Restrictions: One ADU shall be allowed on a lot with a proposed or existing Primary Dwelling that is zoned residential.

B. Development Standards:

1. Size restrictions. If there is an existing Primary Dwelling, an Attached ADU shall not exceed fifty percent (50%) of the gross floor area for the Primary Dwelling. An Attached ADU that is proposed with a new Primary Dwelling shall not exceed 1,200 square feet in floor area. A Detached ADU shall not exceed 1,200 square feet in floor area. In no case shall an ADU be less than an "efficiency unit" as defined in Section 17958.1 of Health and Safety Code with respect to square footage.

2. Height restrictions. An ADU shall not exceed 16 feet in height.

3. Transfer. An ADU shall not be sold, transferred, or assigned separately from the Primary Dwelling, but may be rented. The ADU shall not be used for short term rentals for less than 31 days.

4. Setback. No setback shall be required for an ADU that is within an Existing Structure or new ADU that is constructed in the same location and with the same dimensions as an Existing Structure. For all other ADUs, the required setback from side and rear lot lines shall be four feet. An ADU shall comply with all required front yard setbacks otherwise required by the Municipal Code.

5. Lot Coverage. An ADU shall conform to all lot coverage requirements applicable to the zoning district in which the property is located, except where the application of the lot coverage regulations would not permit construction of an 800 square foot ADU that is 16 feet in height with four-foot side and rear yard setbacks.

6. Historic Resources. An ADU that has the potential to adversely impact any historical resource listed on the California Register of Historic Resources, shall be designed and constructed in accordance with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings” found at 36 CFR 68.3, as amended from time to time. An ADU shall also comply with all local historic register requirements, as well as all objective local requirements, ordinances, or Specific Plans that pertain to historic resources.

C. Design and Features:

1. Design. The ADU shall have the same design, architecture, colors and materials of the Primary Dwelling, and shall comply with any objective design standards adopted by the City that are applicable to the zoning district or Specific Plan area where the ADU is located.

2. Fire Sprinklers. ADUs are required to provide fire sprinklers if they are required for the Primary Dwelling.

3. An ADU shall have a separate exterior access.

D. Covenant Required: The property owner shall record a declaration of restrictions, in a form approved by the City Attorney, placing the following restrictions on the property, the property owner, and all successors in interest: (i) the ADU is to be rented only for terms of 30 days or longer; and (ii) the ADU is not to be sold or conveyed separately from the Primary Dwelling. Proof of recordation of the covenant shall be provided to the City before the City finalizes the building permit.

E. Parking Requirements:

1. In addition to the off-street parking space(s) required for the Primary Dwelling, one off-street parking space shall be provided for each ADU, except when:

- a. The ADU is located within one-half mile walking distance of Public Transit;
- b. The ADU is located within an architecturally and historically significant historic district;
- c. The ADU is part of a proposed or existing Primary Dwelling or accessory structure;
- d. The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant; or
- e. The ADU is located within one block of a city-approved and dedicated parking space for a car share vehicle.

2. When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.

Section 17.23.060 Fees and Utility Connections.

A. ADUs and JADUs shall have adequate water and sewer services. These services may be provided from the water and sewer points of connection for the Primary Dwelling and not be a separate set of services.

B. The owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees, including impact fees set forth in Government Code section 66000 et seq., except as follows:

- 1. ADUs that are less than 750 square feet shall not be subject to impact fees.
- 2. ADUs that are 750 square feet or more shall be charged impact fees that are proportional in relation to the square footage of the primary dwelling unit.

C. Prior to receiving a building permit, the owner of an ADU or JADU must submit letters of service availability for water and sewer disposal to the Building Official.

Section 8. Table 17.24.040 (Parking Spaces Required) of Chapter 17.24 (Off-Street Parking and Loading) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended as follows, with all other provisions of Table 17.24.040 remaining unchanged:

| Description of Use | Required Number of Spaces |
|-------------------------|--|
| Accessory Dwelling Unit | 1 parking space per newly constructed Detached ADU except as otherwise provided in Chapter 17.23. The parking space may be provided as tandem parking on the driveway. |

Section 9. California Environmental Quality Act Exemption. The City Council determines that this ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, et seq., (“CEQA”) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 10. Submittal of Ordinance. The Community Development Director, or his designee, shall submit a copy of the Ordinance to the Department of Housing and Community Development within 60 days after adoption of this Ordinance.

Section 11. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 12. 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 day of , 2020.

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. 2020- was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 28th day of April, 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 , , by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk