

**ORDINANCE NO. 2020-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM WITH DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915) AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.

WHEREAS, Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.

WHEREAS, the City Council of the City of Temecula adopted the City's 2014-2021 Housing Element on January 28, 2014.

WHEREAS, Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.

WHEREAS, the City's Development Code already allows for density bonuses and development concessions, but Program 4 of the City's 2014-2021 Housing Element provides that the City will establish a density bonus program that is consistent with updated versions of Density Bonus Law.

WHEREAS, the Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Development Code to ensure consistency with State law and clarify how to implement the density bonus program.

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. The Planning Commission considered this Ordinance on February 19, 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 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. 2020-07, 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 the 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 2.** Findings. The City Council of the City of Temecula in approving the proposed Municipal Code amendment hereby makes the following findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

A. This Ordinance is consistent with State Housing Law, the Temecula 2014-2021 Housing Element, and the Temecula General Plan. This Ordinance clarifies the City’s density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.

B. The proposed Ordinance amends portions of Title 17 of the Temecula Municipal Code to conform with State Density Bonus Law and with the goals, policies, programs, and guidelines of the City’s General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City’s 2014-2021 Housing Element:

1. 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;

2. Policy 2.1 Promote a variety of housing opportunities that accommodate the needs of all income levels of the population, and provide opportunities to meet Temecula’s fair share of extremely low-, very low-, low- and moderate-income housing by promoting the City’s program of density bonuses and incentives;

3. Policy 2.2 Support innovative public, private, and nonprofit efforts in the development of affordable housing, particularly for special needs groups;

4. Policy 5.2 Support efforts to ensure that all income segments of the community have unrestricted access to appropriate housing.

C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein.

**SECTION 3.** Subsection “Q” of Section 17.10.020 (Supplemental Development Standards) of Chapter 17.10 (Supplemental Development Standards) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended in its entirety to read as follows, with all other subsections of Section 17.10.020 to remain the same:

“Q. Density Bonus Law.

1. In addition to any other review required for a proposed housing development, applications for a density bonus shall be filed with the planning director on a form approved by the

director. The application shall be filed concurrently with an application for a development plan review or administrative approval. At the time the application is submitted, the applicant shall pay a density bonus application fee, established by resolution of the City Council.

2. City staff shall process the application for a density bonus in the same manner as, and concurrently with, the application for a development plan review or administrative approval that is required by this Code.
3. The applicant shall submit reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios.
4. For a housing development qualifying pursuant to the requirements of Government Code Section 65915, the City shall grant a density bonus in an amount specified by Government Code Section 65915. Except as otherwise required by Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus. Except as otherwise required by Government Code Section 65915, the amount of the density bonus shall not exceed 35 percent.
5. For the purpose of calculating the density bonus, the “maximum allowable residential density” shall be the maximum density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the maximum density allowed in the general plan shall prevail.
6. The City shall grant the applicant the number of incentives and concessions required by Government Code Section 65915. The City shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings stated in Government Code Section 65915(d). Senior citizen housing developments that qualify for a density bonus shall not receive any incentives or concessions, unless Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.
7. Except as restricted by Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:

- a. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;
  - b. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
  - c. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
  - d. The waiver or reduction of the development standard would be contrary to state or federal law.
8. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with Government Code Section 65915(p), as that section may be amended from time to time.
  9. The applicant shall comply with all requirements stated in Government Code Section 65915.
  10. The applicant shall enter into an agreement with the City to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.
  11. For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.
  12. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under Government Code Section 65915.
  13. The provisions of this subdivision shall be interpreted to fulfill the requirements of Government Code Section 65915. Any changes to that Government Code Section 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.”

**SECTION 4.** Environmental Findings. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility that this Ordinance would

have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, this Ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

**SECTION 5.** Severability. If any section subsection, subdivision, paragraph, sentence, clause or phrase 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, subsection, subdivision, paragraph, sentence, clause or phrase hereof, 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 6.** 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 7.** 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 26<sup>th</sup> day of May, 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. 2020-05 was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 28<sup>th</sup> 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 26<sup>th</sup> day of May, 2020, the following vote:

AYES:                   COUNCIL MEMBERS:

NOES:                   COUNCIL MEMBERS:

ABSTAIN:               COUNCIL MEMBERS:

ABSENT:                COUNCIL MEMBERS:

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Randi Johl, City Clerk