

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO AMEND CHAPTER 17.21 REGARDING THE AFFORDABLE HOUSING OVERLAY ZONE, AND MAKING THE DETERMINATION THAT THE PROPOSED ORDINANCE IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW UNDER 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. The Planning Commission considered this Ordinance, including the environmental analysis, on April 22, 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 opposition to this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2020-09, recommending approval of the Ordinance by the City Council.

C. The City Council, at a regular meeting, considered the Ordinance, including the environmental analysis, on May 26, 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.

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.** Legislative Findings. The City Council of the City of Temecula in approving the proposed Municipal Code amendment in Long Range Planning Project Number LR20-0279 hereby makes the following findings:

A. 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.

B. 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. The City Council of the City of Temecula adopted the City's 2014-2021 Housing Element on January 28, 2014. The City's Housing Element identified the need to amend the City's Municipal Code to establish an Affordable Housing Overlay Zone to

encourage the development of affordable housing in the City. On September 25, 2018, the City Council adopted an ordinance establishing the Affordable Housing Overlay Zone.

C. Staff has now determined that the Affordable Housing Overlay Zone ordinance should be amended to clarify (1) a cultural resources agreement must be entered into with the Pechanga tribe before the Community Development Director will issue an administrative permit, and (2) that affordable units must be constructed concurrent with or prior to the market rate units, and must be dispersed throughout the development project. These revisions are necessary to not only protect the cultural resources in the area, but also to ensure that affordable housing is actually constructed by project proponents that seek to develop projects using the overlay zone.

D. The proposed amendments to the affordable housing overlay zone ordinance are in conformance with the goals, policies, programs and guidelines of elements of the General Plan. The Ordinance implements the following policies contained in the City's Housing Element:

1. Policy 1.1: Provide an inventory of land at varying densities sufficient to accommodate the existing and projected housing needs in the City;
2. 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;
3. 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;
4. Policy 2.2 Support innovative public, private, and nonprofit efforts in the development of affordable housing, particularly for special needs groups;
5. Policy 3.1 Expedite processing procedures and fees for new construction or rehabilitation of housing; and
6. Policy 5.2: Support efforts to ensure that all income segments of the community have unrestricted access to appropriate housing.

Furthermore, the Ordinance implements the following goals and policies contained in the City's General Plan Land Use Element:

7. Goal 1: A diverse and integrated mix of residential, commercial, industrial, recreational, public and open space land uses.
8. Policy 1.6: Encourage flexible zoning techniques in appropriate locations to encourage mixed use development, preserve natural features, achieve innovative site design, achieve a range of transition of densities, provide open space and recreation facilities, and/or provide necessary amenities and facilities.

E. The proposed amendments to the Municipal Code are consistent with the General Plan and all applicable provisions contained therein. Residential development approved pursuant to Chapter 17.21 complies with the requirements included in the City's General Plan Housing Element.

**Section 3.** Environmental Findings. The City Council of the City of Temecula hereby makes the following environmental findings and determinations in connection with the approval of the proposed Ordinance:

A. Pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA")), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), the proposed Ordinance falls within the scope of the environmental analysis conducted for the City's 2014 – 2021 Housing Element and the Uptown Temecula Specific Plan.

B. On January 28, 2014, a Negative Declaration was adopted for the approval of the 2014 – 2021 Housing Element, which analyzed the potential impacts and determined that less than significant impacts would result from the adoption of the 2014 – 2021 Housing Element. In 2019, the City adopted the Affordable Housing Overlay Zone which was described in the City's Housing Element. On November 17, 2015, an Environmental Impact Report (EIR) (SCH #2013061012) was certified in connection with the approval of the Uptown Temecula Specific Plan. The Affordable Housing Overlay Zone ordinance applied the affordable housing overlay zone to certain parcels located in the Uptown Temecula Specific Plan Area.

C. The proposed amendments to the Affordable Housing Overlay Zone ordinance do not increase the number of properties that are located within the Affordable Housing Overlay Zone, or change the zoning designation of any of the properties within this overlay zone. Instead, the ordinance merely clarifies that (1) a cultural resources agreement must be entered into with the Pechanga tribe before the Community Development Director will issue an administrative permit, (2) that affordable units must be constructed concurrent with or prior to the market rate units, and (3) that the affordable units must be dispersed throughout the development project. As such, the environmental impacts for the Project have been evaluated by the previously adopted Negative Declaration for the Housing Element, and the EIR for the Uptown Temecula Specific Plan, and no further environmental review is necessary. None of the circumstances in CEQA Guidelines Section 15162 exist to require any additional environmental review and no further documentation is necessary.

D. In addition, because it can be seen with certainty that there is no possibility that the proposed amendments to the Affordable Housing Overlay Zone will have a significant effect on the environment, the project is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3). Staff is hereby directed to file a Notice of Exemption.

**Section 4.** Subsection A of Section 17.21.040 (Compliance with Laws) of Chapter 17.21 (Affordable Housing Overlay Zoning District) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows, with all other provisions of Section 17.21.040 remaining unchanged:

“A. The applicant shall enter into a Cultural Resources Treatment Agreement with the Pechanga Tribe, and provide a copy of this agreement to the City before the Director approves the Administrative Review Application. This Agreement shall address the following:

1. Treatment and disposition of cultural resources;
2. The designation, responsibilities, and participation of professional Pechanga Tribal monitors during grading, excavation and ground disturbing activities;
3. Project grading and development scheduling;
4. Terms of compensation for the Pechanga Tribal monitors;
5. Treatment and final disposition of any cultural resources, sacred sites, and human remains discovered onsite;
6. Pechanga Tribal monitor’s authority to stop and redirect grading in order to evaluate the significance of any potential resources discovered on the property, and to make recommendations as to treatment;
7. The applicant’s agreement to relinquish ownership of all cultural resources, including all archaeological artifacts that are found on the project area, to the Pechanga Tribe for proper treatment and disposition; and
8. The applicant’s agreement that all Pechanga Tribal sacred sites are to be avoided and preserved.”

**Section 5.** Subsection D of Section 17.21.060 (Regulations and Development Standards.) of Chapter 17.21 (Affordable Housing Overlay Zoning District) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended to read as follows, with all other provisions of Section 17.21.060 remaining unchanged:

“D. At least 20 percent of the residential units of each building developed pursuant to this Chapter 17.21 shall be reserved for households earning no greater than 80 percent of area median income adjusted for family size appropriate to the unit. The units shall be sold or rented at an affordable housing cost or affordable rent, as those terms are defined in Sections 50052.5 and 50053 of the California Health and Safety Code. If the units are rental units, the affordable units shall be deed-restricted for a period of not less than fifty-five (55) years. If the units are for-sale units, the units shall be sold in accordance with California Government Code Section 65915.

For any project that is developed pursuant to this Chapter 17.21, the affordable units 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.”

**Section 6.** Sections 4 and 5 of this Ordinance shall not apply to any project that has submitted an application that has been deemed complete by the City prior to April 22, 2020.

**Section 7.** 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.** 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.** 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.

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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-        was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 26<sup>th</sup> day of May, 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, the following vote:

AYES:                   COUNCIL MEMBERS:

NOES:                   COUNCIL MEMBERS:

ABSTAIN:               COUNCIL MEMBERS:

ABSENT:                COUNCIL MEMBERS:

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Randi Johl, City Clerk