

## **ORDINANCE NO. 2024-**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA APPROVING CODE AMENDMENT NO. LR23-0012, FINDING DEVELOPMENT CODE AMENDMENT NO. LR23-0012 EXEMPT FROM ENVIRONMENTAL REVIEW AND ADOPTING DEVELOPMENT CODE AMENDMENT NO. LR 23-0012 TO AMEND HOUSING RELATED PROVISIONS OF THE MENIFEE MUNICIPAL CODE AS REQUIRED TO COMPLY WITH STATE LAW AND TO IMPLEMENT THE CITY'S 6<sup>TH</sup> CYCLE, 2021-2029 HOUSING ELEMENT**

**WHEREAS**, following adoption of the City's 6<sup>TH</sup> Cycle, 2021-2029 Housing Element in November 2022, the City of Menifee initiated an application for Development Code Amendment No. LR 23-0012 to amend the Development Code (Title 9 of the Menifee Municipal Code ("MMC")) to comply with latest State housing law and to implement the policies and program actions of the City's 6<sup>th</sup> Cycle, 2021-2029 Housing Element; and

**WHEREAS**, Development Code Amendment No. LR23-0012 consists of provisions to support greater housing opportunity to address the State housing crisis including provisions necessary to comply with several recent housing related laws, including but not limited to Senate Bill (SB) 9 related to urban lot splits and two unit developments, Assembly Bill (AB) 2221 and SB 897 related to accessory dwelling units and junior accessory dwelling units, SB 2, AB 2162, AB 139, and AB 2339 related to emergency shelters, supportive housing, and transitional housing, AB 101 related to low barrier navigation centers, AB 2011 and SB 6 related to multifamily housing development in commercial zones, and AB 2334, AB 1551 and AB 682 related to density bonus provisions; and

**WHEREAS**, Development Code Amendment No. LR23-0012 includes amendments to the following chapters and/or sections of the Development Code and includes the addition of new chapters and/or sections:

- Section 9.30.090 Approving Authority Table
- Chapter 9.35 Accessory Dwelling Unit Permit (removed chapter)
- Chapter 9.85 Reasonable Accommodation
- Chapter 9.125 Agricultural & Rural Residential Zones
- Chapter 9.130 Residential Zones
- Chapter 9.135 Commercial and Industrial Zones
- Chapter 9.140 Economic Development Corridor Zones
- Chapter 9.180 Density Bonus
- Chapter 9.215 Parking and Loading Standards
- Chapter 9.295 Special Housing Types:
  - Section 9.295.020 Accessory Dwelling Units
  - Section 9.295.025 Affordable Housing in Commercial Zones (new section)
  - Section 9.295.027 Emergency Shelter (new section)
  - Section 9.295.035 Low Barrier Navigation Center (new section)
- Chapter 9.296 SB9 Urban Lot Split & 2-Unit Developments (new chapter)
- Chapter 9.300 Universal Definitions

- Section 9.305.030 Density Bonus & Related Terms Defined; and

**WHEREAS**, the proposed amendments were presented to the City's Developer Stakeholder Group at their meeting on September 28, 2023, where City staff received input and answered questions from the group including questions related to the unit size requirements of the SB 9, two-unit development standards and other provisions; and

**WHEREAS**, the Developer Stakeholder Group was generally supportive of the proposed amendments and had no objections; and

**WHEREAS**, Development Code Amendment No. LR 23-0012 is consistent with the 2014 March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan and the 2010/2011 Perris Valley Airport Land Use Compatibility Plan; and

**WHEREAS**, a duly noticed public hearing scheduled on October 25, 2023, for the Planning Commission to consider proposed Development Code Amendment No. LR23-0012, amending the Development Code (Title 9 of the MMC), was publicly noticed by a publication in *The Press Enterprise* (a newspaper of general circulation), an agenda posting, and to persons requesting public notice; and

**WHEREAS**, on October 25, 2023, the City of Menifee Planning Commission, continued the proposed Development Code Amendment No. LR23-0012, to November 8, 2023 to allow staff to incorporate changes into the proposed Development Code Amendment for compliance with newly adopted State legislation related to density bonus requirements and ADUs; and

**WHEREAS**, on November 8, 2023, the City of Menifee Planning Commission, held a duly noticed public hearing on the proposed Development Code Amendment No. LR23-0012, amending the Development Code (Title 9 of the MMC), for which a hearing was publicly noticed by a publication in *The Press Enterprise* (a newspaper of general circulation), an agenda posting, and to persons requesting public notice; and

**WHEREAS**, at the November 8, 2023, Planning Commission public hearing, based upon all materials and testimony considered, the Planning Commission voted 4-0 to adopt Resolution No. PC23-610 recommending that the City Council find the Code Amendment No. LR23-0012 exempt from environmental review under the California Environmental Quality Act and approve Code Amendment LR23-0012; and

**WHEREAS**, Code Amendment No. LR23-0012 was publicly noticed for a City Council public hearing to be held on January 17, 2024, provided by a publication in *The Press Enterprise* (a newspaper of general circulation), an agenda posting, and to persons requesting public notice; and

**WHEREAS**, on January 17, 2024, the City of Menifee City Council, held a public hearing on Code Amendment No. LR23-0012, considered all public testimony as well as all materials in the staff report and accompanying documents for Code Amendment No. LR23-0012.

**NOW, THEREFORE, the City Council of the City of Menifee hereby ordains as follows:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein.

**SECTION 2.** Chapter 9.35 of the Menifee Development Code is deleted in its entirety pursuant to Code Amendment No. LR23-0012 as shown in Exhibit "A," attached hereto and incorporated herein. Deletions are shown via ~~strikethrough~~ and additions are shown via underline.

**SECTION 3.** Chapters 9.85, 9.125, 9.130, 9.135, 9.140, 9.180, 9.215, 9.295, and 9.300 and Sections 9.295.020 and 9.130.090 of the Menifee Development Code are amended pursuant to Code Amendment No. LR23-0012 as shown in Exhibit "A." Deletions are shown via ~~strikethrough~~ and additions are shown via underline.

**SECTION 3.** Chapter 9.296 and Sections 9.295.025, 9.295.027, and 9.295.035 are added to the Menifee Development Code pursuant to Code Amendment No. LR23-0012 as shown in Exhibit "A." Deletions are shown via ~~strikethrough~~ and additions are shown via underline.

**SECTION 4.** All ordinances, resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

**SECTION 5:** *The proposed amendment to Title 9 of the MMC (Zoning and Development Code) is consistent with the intent of the goals and policies of the General Plan.*

The proposed amendment is consistent with the intent of the goals and policies of the General Plan as the proposed amendment is necessary to comply with State law and to implement the City's 6<sup>th</sup> Cycle, 2021-2029 Housing Element policies and program actions. Specifically, the proposed amendment is consistent the following housing related goals and policies of the General Plan:

- **Goal HE-1:** A diverse housing stock that offers a full range of housing opportunities for Menifee residents and supports the local economy.
  - **Policy HE 1.5: *Entitlement Process.*** *Provide flexible entitlement processes that facilitate innovative housing solutions yet balance the need for developer certainty in the approval process.*
  - **Policy HE 1.6: *Permit Process.*** *Permit higher density housing in the 20.1-24 R General Plan designation per City policy.*
- **Goal HE-4:** Effective and responsive housing program and policies.
  - **Policy HE 4.2: *Fair Housing Programs.*** *Support and implement housing programs that overcome patterns of segregation and housing discrimination.*
  - **Policy HE 4.3: *Housing Opportunities.*** *Encourage development of opportunity sites and encourage affordable housing through density bonuses and related incentives.*

**SECTION 6:** *The proposed amendments to Title 9 of the MMC (Zoning and Development Code) prescribes reasonable controls and standards to ensure compatibility with other established uses.*

The proposed amendments to the Zoning and Development Code prescribe reasonable controls and standards to ensure compatibility with other established uses as the proposed amendment consists of provisions to support greater housing opportunity to address the State housing crisis, to implement the City's adopted Housing Element policies and program actions, and is limited to allowing housing uses, including affordable housing, density bonus provisions,

accessory dwelling units, supportive housing, transitional housing, emergency shelters, low barrier navigation centers, housing in commercial zones, and streamlining approvals for such uses to the extent that State law requires, while maintaining reasonable controls to the extent allowed by the law to ensure compatibility with other established uses.

**SECTION 7:** *The proposed zone or amendments to this Title provides reasonable property development rights while protecting environmentally sensitive land uses and species.*

The proposed amendment to the Zoning and Development Code will provide reasonable property development rights while protecting environmentally sensitive land uses and species as the proposed amendment consists of provisions to support greater housing opportunity to address the State housing crisis, to implement the City's adopted Housing Element policies and program actions, and is limited to allowing housing uses, including affordable housing, density bonus provisions, accessory dwelling units, supportive housing, transitional housing, emergency shelters, low barrier navigation centers, housing in commercial zones, and streamlining approvals for such uses to the extent that State law requires, to provide reasonable property development rights while protecting environmentally sensitive land uses and species.

**SECTION 8:** *The proposed amendments to Title 9 of the MMC ensures protection of the general health, safety, and welfare of the community.*

The proposed amendment ensures protection of the general health, safety, or welfare of the community as the proposed amendment consists of provisions to support greater housing opportunity to address the State housing crisis, to implement the City's adopted Housing Element policies and program actions, and is limited to allowing housing uses, including affordable housing, density bonus provisions, accessory dwelling units, supportive housing, transitional housing, emergency shelters, low barrier navigation centers, housing in commercial zones, and streamlining approvals for such uses to the extent that State law requires.

**SECTION 9:** *Compliance with CEQA. The proposed amendments to Title 9 of the MMC (Zoning and Development Code) are in compliance with the requirements of CEQA.*

Staff has reviewed the proposed Development Code Amendment in accordance with the CEQA Guidelines and has determined that the Development Code Amendment is exempt pursuant to Statutory Exemptions Section 15282.h as the proposed amendment involves "adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65851.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code" and is exempt per Section 15061 (b) (3) 'Common Sense Exemption' of the CEQA Guidelines, as the proposed Code Amendment is required to comply with State law and to implement the City's adopted 6<sup>th</sup> Cycle 2021-2029 Housing Element. Therefore, it can be seen with certainty that there is no possibility that the proposed amendments will have a significant impact on the environment.

Additionally, the proposed Development Code Amendment implements Program Actions 6, 21, 22, 23, 24, 26, 34, and 36 of the City's adopted 6<sup>th</sup> Cycle, 2021-2029 Housing Element of the General Plan. On December 15, 2021, the City Council adopted Resolution No. 21-1110 adopting the Final Programmatic Environmental Impact Report ("FPEIR") for the Housing Element Update Project (State Clearinghouse No. 2022010031) ("Project"). Based on data and analysis

and findings of the FPEIR, the Project would not directly result in significant adverse environmental impacts. All potential impacts were determined to be less than significant without mitigation or can be reduced to a less than significant level with implementation of the mitigation measures identified in the FPEIR. Additionally, no cumulative significant impacts were identified in the FPEIR based on findings that the Project's contributions to such impacts are considered not to be cumulatively considerable.

**SECTION 10. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Menifee hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, sub-divisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

**SECTION 11. Effective Date.** This ordinance shall take effect 30 days from the date of its adoption.

**SECTION 12. Notice of Adoption.** The Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

This Ordinance was introduced for first reading on January 17, 2024, and **PASSED, APPROVED, AND ADOPTED** this 7<sup>th</sup> day of February 2024.

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Bill Zimmerman, Mayor

Attest:

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Sarah Manwaring, City Clerk

Approved as to form:

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Jeffrey T. Melching, City Attorney