

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA, FINDING THAT PROPOSED DEVELOPMENT CODE AMENDMENT NO. LR 22-0130 IS EXEMPT FROM ENVIRONMENTAL REVIEW AND ADOPTING PROPOSED DEVELOPMENT CODE AMENDMENT NO. LR 22-0130 TO AMEND THE MENIFEE MUNICIPAL CODE AND MENIFEE NORTH SPECIFIC PLAN NO. 260 ZONING ORDINANCE RELATING TO BATTERY ENERGY STORAGE SYSTEM

WHEREAS, existing provisions of the City of Menifee Municipal Code do not address battery energy storage facilities; and

WHEREAS, on October 6, 2021, the City Council of the City of Menifee adopted an urgency Ordinance imposing a 45-day moratorium on utility-scale battery storage uses with later options to extend the moratorium for a total period of up to two years; and

WHEREAS, on November 17, 2021, the City Council of the City of Menifee adopted an Ordinance extending the moratorium on utility-scale battery storage for a period of 10 months and 15 days; and

WHEREAS, City staff met the Southern California Edison and stakeholders to obtain feedback regarding development standards; and

WHEREAS, on June 2, 2022, the Riverside County Airport Land Use Commission (ALUC) found Development Code Amendment No. LR 22-0130 (Development Code Amendment, attached hereto as Exhibit "A") 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, the Development Code Amendment consists of four main code amendments to the Menifee Municipal Code: update to Title 9, Article 3 ("Zones"), Section 9.135.030 ("Allowed Uses and Approval Requirements"), Article 5 ("Special Use Standards"), Chapter 9.300 ("Energy Storage Facilities"), and Article 6 ("Definitions"), and an amendment to zoning text of the Menifee North Specific Plan No. 260 to include Battery Energy Storage as an allowable use subject to the above-referenced Chapter 9.300; and

WHEREAS, the Development Code Amendment will amend zoning text of the Menifee North Specific Plan No. 260, Amendment No. 3 by modifying the allowable uses within Planning Areas 2 and 3 to allow for Battery Energy Storage Systems, subject to the above-referenced Chapter 9.300; and

WHEREAS, on June 8, 2022, the Planning Commission held a duly noticed public hearing on the Development Code Amendment, considered all public testimony as well as all materials in the staff report and accompanying documents for the Development Code Amendment, which hearing was publicly noticed by a publication in the newspaper of general circulation, and an agenda posting; and

WHEREAS, at the June 8, 2022 Planning Commission public hearing, based upon all materials and testimony considered, the Planning Commission voted 3-0-2 to

adopt Resolution No. PC 22-562 recommending that the City Council find the Ordinance exempt from environmental review under the California Environmental Quality Act and adopt the Ordinance; and

WHEREAS, the City Council considered the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. seq.) regarding the possible impacts that the Development Code Amendment may have upon the environment; and

WHEREAS, on July 20, 2022, the City Council continued the public hearing for LR 22-0130 to August 17, 2022; and

WHEREAS, on August 17, 2022, the City Council continued the public hearing for LR 22-0130 to September 21, 2022; and

WHEREAS, on September 21, 2022, the City Council held a duly noticed public hearing concerning the Ordinance to approve the Development Code Amendment, introduced and conducted a first reading of the Ordinance, and considered testimony and evidence at the Public Hearing held with respect thereto; and

WHEREAS, on October 5, 2022, the City Council conducted a second reading of the Ordinance to approve the Development Code Amendment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENIFEE DOES ORDAIN AS FOLLOWS:

Section 1: *The proposed zone or amendments to this Title is consistent with the intent of the goals and policies of the General Plan.*

Consistency with General Plan

The proposed modifications to the Development Code set forth in the Development Code Amendment (attached as Exhibit “A”) modify the permissible and conditionally permitted uses in established zones, establish special use standards specific to utility-scale battery energy storage systems, and make modifications to the definitions of the Development Code. The proposed Development Code Amendment is not a project and will not construct any structure nor propose any development. The proposed changes will remain consistent with the General Plan.

In addition, the Development Code Amendment is consistent with the following City of Menifee General Plan policies:

- *LU-1.4: Preserve, protect, and enhance established rural, estate, and residential neighborhoods by providing sensitive and well-designed transitions (building design, landscape, etc.) between these neighborhoods and adjoining areas.*

The Development Code Amendment will further help the transition between the surrounding zones and help preserve the existing character and development patterns of the City. It will also focus the

development of battery energy storage systems within already established business park and heavy industrial zones within the City.

- *LU-1.6: Coordinate land use, infrastructure, and transportation planning and analysis with regional, county, and other local agencies to further regional and subregional goals for jobs-housing balance.*

Staff engaged in multiple stakeholder meetings in preparation of the Development Code Amendment, including with Southern California Edison. The proposed changes to the Development Code are primarily focused on zones located in proximity to the Valley Substation (located on the southwest corner of Menifee Road and Highway 74 within the northeasterly portion of the City). Close proximity to this Valley Substation allows for more efficient infrastructure and lower costs in the development of reliable battery energy storage within the City.

- *LU-1.10: Buffer sensitive land uses, such as residences, schools, care facilities, and recreation areas from major air pollutant emission sources, including freeways, manufacturing, hazardous materials storage, and similar uses.*

The affected zones within the City are surrounded by a variety of commercial, residential, and public land uses. The Development Code Amendment will help focus the development of battery energy storage systems within already established business park and heavy industrial zones, and these uses will be buffered from potential impacts to existing and future land uses.

- *LU-3.2: Work with utility providers to increase service capacity as demand increases*

The Development Code Amendment allows for, accommodates, and regulates the development of battery energy storage systems. Battery energy storage systems can be used to help California advance its renewable portfolio standard and energy storage goals, provide long-duration storage capacity, and maximize use of existing energy project infrastructure.

Section 2: *The proposed zone or amendments to this Title (the Zoning and Development Code) prescribes reasonable controls and standards to ensure compatibility with other established uses.*

The Development Code Amendment will help provide more cohesive design standards for the existing built environment. These standards will ensure that there will be a smooth and buffered transition between existing and future land uses. The new development standards will continue to promote the strategic and controlled growth.

Section 3: *The proposed zone or amendments to this Title provides reasonable property development rights while protecting environmentally sensitive land uses and species.*

The Development Code Amendment will make minor modifications to the existing Development Code. The reasonable property development rights of landowners will not be impacted. The proposed changes seek to preserve the character of the city while creating a framework for thoughtful and compatible growth.

Section 4: *The proposed zone or amendments to this Title ensures protection of the general health, safety and welfare of the community.*

The Development Code Amendment will not result in conditions detrimental to the public health, safety, or general welfare as designed and conditioned. The proposed approval is not a project and will not construct a development. The Development Code Amendment has been reviewed by a variety of Departments to ensure compliance with applicable regulations, including City of Menifee Building and Safety and Riverside County Fire Department, as well as Southern California Edison and stakeholder, including potential developers of battery energy storage system projects.

Therefore, the modification would not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible with other properties or land uses in the impacted vicinity.

Section 5: *Compliance with California Environmental Quality Act (CEQA). Processing and approval of the Development Code Amendment is in compliance with the requirements of CEQA.*

The adoption of the Development Code Amendment does not fall within the definition of a “project” under CEQA because it, as a narrative change to the Municipal Code, does not have the potential for resulting in a direct or indirect physical change in the environment (CEQA Guidelines 15378(a)) and is an administrative activity of the City that will not result in direct or indirect physical changes in the environment (CEQA Guidelines 15378(b)(5)). In addition, the adoption of the Development Code Amendment is exempt from CEQA because there is no possibility that the proposed ordinance, as a textural change to the Municipal Code, may have a significant impact on the physical environment (CEQA Guidelines 15061) and because, per Section 15061(b)(3), it can be seen with certainty to have no possibility of a significant effect upon the environment.

Section 6: Adoption. The Development Code Amendment, as set forth on Exhibit “A” hereto, is hereby approved and adopted. Exhibit “A” shows the changes to existing Development code with underlining of additions and ~~strikeout~~ of deletions.

Section 7: Notice of Adoption. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published within fifteen (15) days after passage in accordance with law, and shall cause this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City of Menifee.

Section 7: Effective Date. This Ordinance shall take effect and be in full force and operation thirty (30) days after its adoption.

Section 8: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is (including without limitation the provisions of the Development Code Amendment set forth in Exhibit "A"), for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

THIS ORDINANCE WAS INTRODUCED AND READ ON THE 21ST DAY OF SEPTEMBER, 2022 AND APPROVED AND ADOPTED THIS ____ DAY OF ____ 2022.

Bill Zimmerman, Mayor

Attest:

Stephanie Roseen, Acting City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney