

ORDINANCE NO. 2023- _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA APPROVING CODE AMENDMENT LR23-0017, AMENDING CHAPTER 9.130.030 OF THE DEVELOPMENT CODE (TITLE 9 OF THE MENIFEE MUNICIPAL CODE) TO INCLUDE PROVISIONS REQUIRED TO IMPLEMENT HOUSING ELEMENT PROGRAM ACTION 5 AND COMPLY WITH STATE LAW

WHEREAS, on December 15, 2021, the City Council initially adopted the City's 6th cycle, 2021-2029 Housing Element, which had been previously reviewed by the State Department of Housing and Community Development (HCD) and revised to address HCD comments;

WHEREAS, after the initial adoption of the Housing Element, subsequent review and revisions to the Housing Element were required by HCD to comply with State Housing Element law;

WHEREAS, on November 16, 2022, the City Council Adopted Resolution No. 2022-1265, re-adopting and approving HCD required revisions to the City's 6th cycle, 2021-2029 Housing Element to comply with State Housing Element law;

WHEREAS, on November 22, 2022, the City submitted the re-adopted 6TH cycle, 2021-2029 Housing Element to HCD for their review as required to comply with the State Housing law;

WHEREAS, on January 19, 2023, the City received a letter from HCD determining that the Housing Element cannot be found in full compliance until Program 5 (Candidate Sites Used in Previous Housing Element) to allow by-right processing of sites identified in previous housing elements pursuant to Government Code section 65583.2, subdivision (c) is completed;

WHEREAS, in January of 2023, the City of Menifee initiated an application for Code Amendment LR 23-0017 to amend the Development Code (Title 9 of the Menifee Municipal Code) to implement and complete Housing Element Program Action 5 and comply with State law (Government Code section 65583.2, subdivision (c));

WHEREAS, this proposed Code Amendment LR23-0017 includes amending Section 9.130.030 "Allowed Uses and Approval Requirements" of the Development Code for by-right review of residential projects with a minimum of 20 percent of units affordable to lower-income households on non-vacant sites identified to accommodate the lower-income Regional Housing Needs Allocation (RHNA) in the current adopted Housing Element and used in a prior housing element;

WHEREAS, Code Amendment LR23-0017 provides that such projects shall be by-right and shall not require discretionary review that would constitute a "project" under the California Environmental Quality Act (CEQA);

WHEREAS, Code Amendment LR23-0017 also includes amending Section 9.130.030 "Allowed Uses and Approval Requirements" of the Development Code for by-right review of residential projects with a minimum of 20 percent of units affordable to lower-income households on vacant sites identified to accommodate the lower-income RHNA in the current adopted Housing Element and used in two prior housing elements;

WHEREAS, Code Amendment LR23-0017 provides that such projects shall be by-right and shall not require discretionary review that would constitute a “project” under the California Environmental Quality Act (CEQA);

WHEREAS, upon adoption of the proposed Code Amendment to implement Housing Element Program Action 5, a copy of the Ordinance will be submitted to HCD as required to obtain a determination by HCD that the City’s adopted 6th cycle, 2021-2029 Housing Element complies with State law;

WHEREAS, on February 16, 2023, the Riverside County Airport Land Use Commission (ALUC) Director found Code Amendment No. LR 23-0017 to be 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;

WHEREAS, Code Amendment No. LR23-0017 was publicly noticed for a Planning Commission public hearing to be held on March 8, 2023, 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 March 8, 2023, the City of Menifee Planning Commission, held a public hearing on Code Amendment No. LR23-0017, considered all public testimony as well as all materials in the staff report and accompanying documents for Code Amendment No. LR23-0017; and

WHEREAS, at the March 8, 2023, Planning Commission public hearing, based upon all materials and testimony considered, the Planning Commission voted 5-0 to adopt Resolution No. PC23-581 recommending that the City Council find the Code Amendment No. LR23-0017 exempt from environmental review under the California Environmental Quality Act and approve Code Amendment LR23-0017; and

WHEREAS, Code Amendment No. LR23-0017 was publicly noticed for a City Council public hearing to be held on April 5, 2023, 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 April 5, 2023, the City of Menifee City Council, held a public hearing on Code Amendment No. LR23-0017, considered all public testimony as well as all materials in the staff report and accompanying documents for Code Amendment No. LR23-0017.

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

SECTION 1. Section 9.130.030, of the Menifee Development Code is amended pursuant to Code Amendment No. LR23-0017 as shown in Exhibit “A” attached hereto. Deletions are shown via ~~strikethrough~~ and additions are shown via underline.

SECTION 2. All ordinances, resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 3. *The proposed Development Code Amendment 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. The proposed amendment only affects the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)). Additionally, the amendment is consistent the following 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 1.1: Adequate Sites.** *Provide adequate sites to accommodate project housing unit growth needs identified by the 2021-2029 RHNA.*
 - **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 4.1: Annual Housing Reporting.** *Evaluate the development of parcels for the 6th Cycle RHNA and report on the status of all housing programs in accordance with state and federal laws.*
 - **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 4. *The proposed Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses.*

The proposed amendment to the Zoning and Development Code prescribes reasonable controls and standards to ensure compatibility with other established uses as the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. Language is included to require such projects to comply with the City's Multifamily Objective Development standards. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

SECTION 5. *The proposed Development Code Amendment 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 provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. Language is included to require

such projects to comply with the City's Multifamily Objective Development standards. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

SECTION 6. *The proposed Development Code Amendment ensures the protection of the general health, safety, and welfare of the community.*

The proposed amendment ensures protection of the general health, safety, and general welfare of the community as the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. Language is included to require such projects to comply with the City's Multifamily Objective Development standards. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

SECTION 7. *Compliance with CEQA. The proposed Development Code Amendment is in compliance with the requirements of the California Environmental Quality Act.*

The proposed amendment complies with the California Environmental Quality Act (CEQA) and is determined to be exempt pursuant to Section 15061(b)(3) "Common Sense Exemption" of the CEQA Guidelines, as it can be seen with certainty that there is no possibility that the proposed amendments will have a significant impact on the environment as follows: 1) the proposed Code Amendment is required to implement Program Action 5 of the City's adopted 6th cycle, 2021-2029 Housing Element and to comply with State law; 2) the Code Amendment involves provisions that only affect the review process (i.e., by-right review) for 20 percent lower income residential projects on certain candidate sites identified in the Housing Element and used in a prior housing element; 3) as required by Government Code section 65583.2(j), such use shall be by-right and shall not require discretionary review that would constitute a "project" as defined in Section 21000 of the Public Resources Code (California Environmental Quality Act "CEQA"); and 4) the proposed Code Amendment implements Program Action 5 of the City's adopted 6th cycle, 2021-2029 Housing Element of the General Plan.

In addition, the proposed amendment is also exempt from CEQA pursuant to California Code of Regulations section 15168 (c) (2), which provides that when an agency adopts a program EIR, it does not need to prepare an additional environmental document for subsequent activities if the activity is within the scope of the program EIR. 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 8. 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, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

SECTION 9. This ordinance shall take effect 30 days from the date of its adoption.

SECTION 10. 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 April 5, 2023, and **PASSED, APPROVED, AND ADOPTED** this ____ day of _____ 2023.

Bill Zimmerman, Mayor

Approved as to form:

Jeffrey T. Melching, City Attorney

Attest:

Kay Vinson, Acting City Clerk

EXHIBIT A