

ORDINANCE NO. 2023- _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE,
CALIFORNIA APPROVING CODE AMENDMENT LR23-0097, AMENDING THE
CITY OF MENIFEE MUNICIPAL CODE TITLE 2, CHAPTER 2.20, SECTION
2.20.150, APPEAL PROCEDURES AND SECTION 2.20.160 CITY COUNCIL
REFERRAL BACK TO THE PLANNING COMMISSION**

WHEREAS, on or about November 17, 2009, the City Council of the City of Menifee ("City") adopted Ordinance 2009-36R, which repealed and readopted Chapter 2.20 to the Menifee Municipal Code, which included Section 2.20.150, Appeal Procedures and Section 2.20.160, City Council Referral Back to Planning Commission; and

WHEREAS, on or about May 18, 2010, the City of Council of City adopted Ordinance 2010-73, which amended Subsection (e) of Section 2.20.150, Appeal Procedures, of the Menifee Municipal Code; and

WHEREAS, since the readoption of Ordinance 2009-36R, and amendment to Section 2.20.150 of the Menifee Municipal Code, on May 30, 2023, the City of Menifee initiated Code Amendment LR 23-0097 to amend Municipal Code Chapter 2.20, Section 2.20.150, Appeal Procedures and Section 2.20.160, City Council Referral Back to Planning Commission; and

WHEREAS, the City occasionally receives appeal requests upon which, City staff is required to review, evaluate, research, analyze, and provide recommendation on such requests, including preparation of a staff report and legal notice of public hearing, which depending on level of complexity, may involve substantial time and effort to prepare; and

WHEREAS, Section 2.20.150, Appeal Procedures of the Menifee Municipal Code provides that the Planning Commission or City Council shall conduct a public hearing on the appeal within 30-days from the date of receipt of the appeal; and

WHEREAS, 30-days is insufficient time for staff to adequately process an appeal request and meet established City Council Staff Report submission deadlines of approximately 3.5 weeks prior to a City Council hearing date; and

WHEREAS, the City desires to amend Section 2.20.150 of the Menifee Municipal Code to increase the timeframe for the Planning Commission or City Council to conduct a public hearing on an appeal to 60-days from the date of receipt of the appeal; and

WHEREAS, Section 2.20.160, City Council referral back to Planning Commission provides that the City Council shall specify the time period that the Planning Commission shall report back to the City Council and that such timeframe shall not be more than 40-days from the date of referral; and

WHEREAS, since the City Council is required to specify the time period for referrals to the Planning Commission, a 40-day limit on the timeframe is not necessary and does not provide flexibility to allow more time if needed including time to meet Staff Report submission deadlines; and

WHEREAS, the City desires to amend Section 2.20.160 of the Menifee Municipal Code to remove the 40-day time limit on referrals to the Planning Commission allowing the City Council the flexibility to establish a time period as is deemed appropriate and sufficient for a matter on a case-by-case basis; and

WHEREAS, City staff have analyzed and determined that the proposed amendment to Sections 2.20.150 and 2.20.160 of the Menifee Municipal Code is not considered a “project” pursuant to the California Environmental Quality Act (CEQA).

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. The City Council finds that this Ordinance is exempt from CEQA pursuant to State CEQA Guidelines section 15060(c)(2) and 15061(b)(3) in that the proposed changes are not anticipated to result in a direct or reasonably foreseeable indirect physical change in the environment not will they have the potential of creating a significant effect on the environment.

SECTION 3. Section 2.20.150, Appeal Procedures, of Chapter 2.20, Planning Commission, of Title 2, Administration and Personnel, is hereby amended to read in its entirety as follows:

Decisions of the Community Development Director may be appealed to the Planning Commission. Decisions of the Planning Commission may be appealed to the City Council. Appeals may be submitted by any interested person, in writing, and must include the specific grounds for the appeal. All appeals must be accompanied by the fee set by the City Council.

(A) Unless otherwise provided by a specific provision of this code, all written appeals (whether of a Community Development Director’s decision or of the Planning Commission) with payment of the fee, must be submitted to the City Clerk no more than ten (10) calendar days after adoption of the resolution or other notice of decision, except for zone change denials, which must be appealed within five (5) calendar days.

(B) The Planning Commission or City Council shall conduct a public hearing on the appeal within ~~30~~ 60 days from the date of receipt of the appeal, which hearing may be continued from time-to-time. Notice of the public hearing shall be given in the same manner as original hearing.

(C) A timely appeal suspends and sets aside the decision of the lower authority.

(D) All appeals are de novo; the Planning Commission or City Council may approve, deny or modify the recommendation of the lower authority.

(E) Any Planning Commissioner or City Council member may appeal a project according to the procedures and within the time frames set out here without payment of the appeal fee.

SECTION 4. Section 2.20.160, City Council Referral Back to Planning Commission, of Chapter 2.20, Planning Commission, of Title 2, Administration and Personnel, is hereby amended to read in its entirety as follows:

(A) The City Council may refer any matter (including, but not limited to, those appealed to it) back to the Planning Commission to make changes to the project, to obtain additional information, to consider new information or for further study.

(B) At the time of referral, the City Council shall specify a time period within which the Planning Commission shall report back to the City Council, ~~which time shall not be more than 40 calendar days from the date of the referral.~~ Failure of the Planning Commission to report back within ~~the time established by the City Council~~ (unless otherwise extended by the City Council) shall be deemed an approval by the Planning Commission of any City Council changes or actions. Otherwise, the Planning Commission's report back to the City Council shall be considered at a City Council public hearing noticed in the same manner as the original appeal or hearing.

SECTION 5. This ordinance shall take effect 30-days from the date of its adoption.

SECTION 6. 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 July 19, 2023, and **PASSED, APPROVED, AND ADOPTED** this ____ day of August 2023.

Bill Zimmerman, Mayor

Approved as to form:

Jeffrey T. Melching, City Attorney

Attest:

Stephanie Roseen, Acting City Clerk