

**ORDINANCE NO. 1482**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING ZONE TEXT AMENDMENT NO. 14-97501 AND ZONE CHANGE NO. 14-3502 TO ESTABLISH AN AFFORDABLE HOUSING OPPORTUNITY (AHO) OVERLAY ZONE IN CONFORMANCE WITH THE GENERAL PLAN HOUSING ELEMENT**

**WHEREAS**, California Government Code §65302(c) mandates that each city shall include a Housing Element in its General Plan. The Housing Element is required to identify and analyze existing and projected housing needs and include statements of the City's goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The City in adopting its Housing Element, must consider economic, environmental, and fiscal factors, as well as community goals as set forth in the General Plan.

**WHEREAS**, on January 28, 2014 the City Council adopted the 2013-2021 Housing Element; and

**WHEREAS**, on May 1, 2014 the California Department of Housing and Community Development ("HCD") issued a letter finding that changes to the Housing Element and zoning regulations would be necessary to fully satisfy the requirements of state law. HCD also stated that the adoption of an Affordable Housing Opportunity (AHO) overlay in the HDR-20 zone would address this finding; and

**WHEREAS**, a finding of substantial compliance from HCD is important to maximize the City's eligibility for grant funds and preserve local land use authority; and

**WHEREAS**, in accordance with Government Code §65854, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of a public hearing to be held by the Planning Commission regarding the proposed zoning amendments; and

**WHEREAS**, on the 3rd day of September 2014, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed zoning amendments, and at which time the Planning Commission considered Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502; and

**WHEREAS**, at this public hearing, the Planning Commission analyzed this proposed project together with an Addendum to a previous Initial Study/Mitigated Negative Declaration in compliance with California Environmental Quality Act §15162 and §15164 and recommended adoption of the Addendum by the City Council; and

**WHEREAS**, On November 28, 2014 notice of the City Council public hearing regarding Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502 was published in the Record Gazette newspaper; and

WHEREAS, on December 9, 2014 the City Council conducted a duly noticed public hearing to consider Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502, at which time all interested persons were invited to provide comments in opposition to or support for the proposed amendment.

NOW THEREFORE, the City Council of the City of Banning does make the following findings and based thereon and the administrative record does ordain as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

An Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program were adopted for the 2008-2013 Banning Housing Element and Zone Change No. 13-3502 in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines §15000 through 15387, and the City of Banning Environmental Review Guidelines. City Council Resolution No. 2013-75, incorporated herein by this reference, provides environmental findings in support of that IS/MND.

When an EIR or negative declaration has been prepared for a project and changes are subsequently proposed to that project, the City is required to determine whether the environmental effects of such actions are within the scope of previous environmental documentation, and whether additional environmental analysis is required. If the agency finds that pursuant to §15162, §15164, and §15183 of the CEQA Guidelines no new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur, then no supplemental or subsequent EIR or MND is required.

Pursuant to CEQA Guidelines §15164, an Addendum to the 2008-2013 Housing Element IS/MND has been prepared to evaluate the potential environmental effects of Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502. Through the analysis described in that Addendum, the City of Banning has determined that changes associated with the proposed zoning amendments are not substantial. No new significant impacts would result from these changes, nor would there be a substantial increase in the severity of previously identified environmental impacts. In addition, the changes with respect to the circumstances under which the project will be undertaken would not result in new or more severe significant environmental impacts.

The City Council finds that the Addendum together with the previous IS/MND reflect its independent judgment further finds that these documents satisfy the requirements of CEQA for Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502.

SECTION 2. REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO 14-97501 AND ZONE CHANGE NO. 14-3502:

**Finding No. 1:** The proposed zoning amendments are consistent with the General Plan.

**Facts in Support of Finding:** The proposed zoning amendments would demonstrate the availability of adequate sites for residential development commensurate with the Regional Housing Needs Assessment (RHNA) for the 2013-2021 planning period. The proposed amendments to the Zoning Ordinance and Map are not only consistent with the General Plan, they are required to ensure consistency with the Housing and Land Use Elements of the General Plan and the RHNA by establishing zoning regulations on sufficient sites to accommodate housing development at densities necessary to meet the projected needs of lower-income households in Banning.

**Finding No. 2:** The proposed zoning amendments would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare of the City.

**Facts in Support of Finding:** Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that adoption of the Affordable Housing Opportunity (AHO) Overlay would not result in new significant environmental effects that were not previously analyzed. Further, any future development on AHO sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference.

**Finding No. 3:** The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s).

**Facts in Support of Finding:** Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO Overlay would not result in new significant impacts regarding access, utilities, land use compatibility or other potential environmental effects that were not previously analyzed and disclosed in the IS/MND and General Plan EIR. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference.

**Finding No. 4:** The proposed zoning amendments shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

**Facts in Support of Finding:** Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO Overlay would not result in new significant impacts to the surrounding properties or the community in general that were not previously analyzed and disclosed in the IS/MND and General Plan EIR. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference. Moreover, adoption of the AHO Overlay is required by state law to ensure consistency with the Regional Housing Needs Assessment.

### SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Zoning Code §17.08.010.B.10 is hereby amended as follows:

“10. High Density Residential-20/Affordable Housing Opportunity (HDR-20/AHO) (20-24 du/acre). Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre and a maximum density of 24 dwelling units per acre when at least 20% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Projects requesting a density increase above 20 units/acre shall execute a Density Bonus Housing Agreement in conformance with Section 15.60.130 of this code. Affordable units shall be distributed throughout the development and shall be comparable to market rate units in design and quality. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

2. Zoning Code Table 17.08.020 is amended to revise the HDR footnote as follows:

“\*Housing developments in the HDR-20/AHO district are permitted at a density of 20-24 dwelling units per acre when at least 20% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

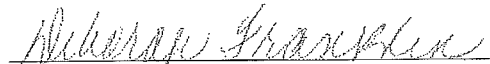
3. The Zoning Map is hereby amended to change the designations for the following parcels from HDR-20 to HDR-20/AHO:

“537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009”

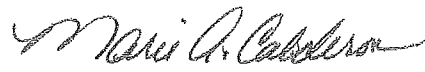
SECTION 4. PUBLICATION

The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon, this Ordinance shall take effect thirty (30) days after the adoption and be in effect according to the law.


PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of January, 2015.

  
Deborah Franklin, Mayor  
City of Banning

ATTEST:

  
Marie A. Calderon, City Clerk

APPROVED AS TO FORM  
AND LEGAL CONTENT:

  
David J. Aleshire, City Attorney  
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1482 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9<sup>th</sup> day of December, 2014 and was duly adopted at a regular meeting of said City Council held on the 13<sup>th</sup> day of January, 2015, by the following vote, to wit:

AYES: Councilmembers Miller, Moyer, Peterson, Welch, Mayor Franklin

NOES: None

ABSENT: None

ABSTAIN: None



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Marie A. Calderon, City Clerk  
City of Banning, California