

DRAFT ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO AMEND SECTION 17.36.030 OF THE ATHERTON MUNICIPAL CODE TO IMPLEMENT THE 2023-2031 HOUSING ELEMENT AND ZONING CODE UPDATES PROJECT

WHEREAS, the Town of Atherton has been diligently working on an updated Housing Element for the 2023-2031 cycle to identify and address the Town's housing needs; and

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code Section 65589.5); and

WHEREAS, the Legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.” (Gov. Code Section 65589.5); and

WHEREAS, the Legislature adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years;” and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the Town of Atherton (Town) regional housing need allocation (RHNA) of 348 housing units, comprised of 94 very-low income units, 54 low-income units, 56 moderate- income units, and 144 above moderate-income units; and

WHEREAS, on January 31, 2023, the City Council of the Town of Atherton approved Resolution 2023–2 adopting an updated Housing Element for the 2023-2031 cycle, which did not constitute a project pursuant to the California Environmental Quality Act (CEQA) and submitted the Housing Element to the State Department of Housing and Community Development for review and certification; and

WHEREAS, on April 4, 2023, the State Department of Housing and Community Development sent a letter to the Town of Atherton indicating that while the adopted housing element addresses many statutory requirements, additional revisions are necessary to substantially comply with State Housing Element Law (Article 10.6 of the California Government Code); and

WHEREAS, the Town of Atherton has continued diligently to address those comments and adopt any related amendments to the Atherton Municipal Code beyond the statutory deadline of January 31, 2023, while also continuing to work on the rezoning amendments to facilitate housing sites as identified in the adopted Housing Element; and

WHEREAS, on July 24, 2024, the Planning Commission of the Town of Atherton held a duly noticed public hearing to review the 2023-2031 Housing Element and Zoning Code Update project and an Initial Study/Mitigated Negative Declaration (SCH# 2024050574) to consider public comment and voted to continue the project for further discussion; and

WHEREAS, on August 28, 2024, the Planning Commission of the Town of Atherton held a second public hearing to review the 2023-2031 Housing Element and Zoning Code Update project and an Initial Study/Mitigated Negative Declaration (SCH# 2024050574) to consider public comment and voted to recommend adoption; and

WHEREAS, on September 18, 2024, the City Council of the Town of Atherton held a duly noticed public hearing to review the 2023-2031 Housing Element and Zoning Code Update project and an Initial Study/Mitigated Negative Declaration (SCH# 2024050574) to consider public comment and voted to continue the project for further discussion; and

WHEREAS, on October 16, 2024, the City Council of the Town of Atherton held a duly noticed public hearing to review the 2023-2031 Housing Element and Zoning Code Update project and an Initial Study/Mitigated Negative Declaration (SCH# 2024050574) to consider public comment and voted to recommend adoption; and

WHEREAS, on October 16, 2024, the City Council of the Town of Atherton approved Ordinance 669 to amend Title 17 of the Atherton Municipal Code to implement the adopted revisions to the 2023-2031 Housing Element; and

WHEREAS, on December 30, 2024, the State Department of Housing and Community Development sent a letter to the Town of Atherton indicating that additional revisions are necessary to substantially comply with State Housing Element Law (Article 10.6 of the California Government Code); and

WHEREAS, on January 29, 2025, the Planning Commission of the Town of Atherton held a duly noticed public hearing to review further revisions to the 2023-2031 Housing Element and the Atherton Municipal Code to comply with State Housing Element Law, considered public comment and voted to adopt a resolution recommending that the City Council approve revisions recommended by staff; and

WHEREAS, on February 19, 2025, the City Council of the Town of Atherton held a duly noticed public hearing to introduce and review revisions to Atherton Municipal Code Section 17.36.030 and the 2023-2031 Housing Element, considered public comment, voted to adopt a resolution approved the Housing Element revisions, directed staff to submit the Housing Element to the State Department of Housing and Community Development for review and certification, and voted to continue the proposed ordinance revising the Atherton Municipal Code for a second

reading on March 19, 2025; and

WHEREAS, on March 19, 2025, the City Council of the Town of Atherton held a duly noticed public hearing for a second reading of the revisions to Atherton Municipal Code Section 17.36.030, and considered public comment; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves the revisions to Atherton Municipal Code Section 17.36.030 based on the findings, supported by substantial evidence in the record, that:

The City Council of the Town of Atherton does hereby ordain as follows:

SECTION 1. RECITALS. The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

SECTION 2. FINDINGS. In accordance with all requirements Atherton Municipal Code Section 17.18.040, the City Council hereby finds that the proposed Zoning Code are consistent with the goals, policies, and implementation of the Atherton General Plan.

SECTION 3. COMPLIANCE WITH CEQA. The proposed Zoning Code amendments will not have a significant effect on the environment and that revisions are consistent with an Initial Study/Mitigated Negative Declaration that was prepared and adopted for the Housing Element and Zoning Code Updates project.

SECTION 4. ADOPTION OF ZONING CODE AMENDMENTS. The City Council of the Town of Atherton hereby amends Section 17.36.030 of the Atherton Municipal Code as follows:

17.36.030 Allowed Uses and Permit Requirements

Table 17.36.030-1 (Allowed Uses and Permit Requirements for PFS District) identifies the allowed uses in the PFS district subject to the development standards of this chapter and all other provisions of this title. Allowed use provisions are symbolized in the table as follows:

P = Land use permitted by right

CUP= Land use permitted with approval of a conditional use permit

Table 17.36.030-1. Allowed Uses and Permit Requirements for PFS District

Land Use	Zoning District
	PFS
Public library	P
Public school	P
Town corporation yard	P

Town hall and associated community uses	P
Accessory dwelling unit in conjunction with multifamily residential uses	P
Emergency shelters	P ⁴
Multiple-family residential uses	P ⁵
Single room occupancy	P ⁵
Churches and places of worship	CUP
Convents	CUP
Country clubs	CUP
Residential associated with primary nonresidential use of property on same site ¹	CUP
Private schools	CUP ^{2,3}
Public utilities and facilities, uses, and structures	CUP
Transportation terminal facilities	CUP

Notes:

1 Examples include dorms or teacher housing associated with school site, convent when associated with religious institutions, etc. and not located on sites with a multifamily overlay.

2 Where a master plan for a private school has been prepared and filed with the town for public record, any application for a conditional use permit shall be compared to the master plan for consistency with that document. All building and/or faculty changes, improvements, or new

construction shall require a conditional use permit. To that end, all conditional use permit applications shall include the following:

- a.** Maps and diagrams showing the proposal in relation to the master plan layout;
- b.** History of student and faculty growth and projections of future growth, including an analysis of that growth's consistency with the master plan projections;
- c.** A traffic and parking analysis of the proposal and comparison to the master plan projections;
- d.** A circulation plan showing how the traffic and pedestrian circulation will function upon implementation of the proposals; and
- e.** Other information that might be required for specific proposals, such as noise analyses, lighting plans, landscape screening plans, heritage tree locations, and other similar information.

3 In addition to other conditions of approval, the planning commission shall require the following items where relevant:

- a.** Identification of the approved uses and hours of operation; and
- b.** Clustering of high intensity or noise-intense structures and uses (such as gymnasiums, theaters, athletic facilities) away from neighboring residential uses, where possible.

4 Emergency shelters shall be permitted only when located within the Town Civic Center property and pursuant to Section 17.36.060; defined as Lots 1, 2, 24, 25 and 26, Watlinton Park RSM (Resubdivision Maps) 5/8.

5 Shall only be permitted by-right (i.e., as a staff-level decision and ministerial review, without discretionary review) on sites with a Multifamily Overlay District (RM-20/40) designation. Subject to compliance with objective design standards in section 17.36.070 (Multifamily Overlay District RM-20/40).

SECTION 5. SEVERABILITY. If any section, subsection, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases may be declared invalid or unconstitutional.

SECTION 6. EFFECTIVE DATE. This ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced on the 19th day of February 2025.

Passed and adopted as an ordinance of the City Council of the Town of Atherton at a regular meeting thereof held on the 19th day of March 2025 by the following vote:

AYES:

NOES:

ABSTAIN:
ABSENT:

Mayor Elizabeth Lewis

ATTEST:

Anthony Suber, City Clerk/Deputy City Manager