

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, APPROVING MUNICIPAL CODE AMENDMENT (MCA) NO. 23-001 AMENDING FONTANA MUNICIPAL CODE CHAPTER 9 TO MODIFY ARTICLE V (INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS), SECTION 9-71(F), PURSUANT TO A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTIONS 15060(C), 15061(B)(3), 15307 AND 15308.

WHEREAS, pursuant to article XI, section 5 of the California Constitution and Government Code section 37100, the legislative body of a city may pass ordinances not in conflict with the Constitution and laws of the State or the United States; and

WHEREAS, the City wishes to amend Chapter 9, Article V, Sec.9.71(f) of the Fontana Municipal Code (“Code”) to better protect sensitive receptors from abutting and adjacent truck entries, drive aisles, and loading docks; and

WHEREAS, Chapter 9, Article V, Sec. 9-71(f) – Buffering and screening/adjacent uses, will be amended to prohibit truck docks, loading, entry, and drive aisles abutting adjacent sensitive receptors; and

WHEREAS, the Code amendment is consistent and compatible with the General Plan and the update is in line with goals, policies, and objectives of the City; and

WHEREAS, the Code amendment will be in conformity with appropriate land use practices and will establish an appropriate development standard for the land use designations, and

WHEREAS, the Code amendment will not be detrimental to the public health, safety, and general welfare; will not adversely affect the orderly development of property; and will better express the City’s policies, and generally promote good land use planning and regulation; and

WHEREAS, a notice of the public hearing was published in the local newspaper on Saturday, October 6, 2023 and simultaneously displayed at City Hall; and

WHEREAS, on October 17, 2023, the Fontana Planning Commission (“Planning Commission”) held a notice public hearing for MCA No. 23-001 and carefully considered all information, evidence and testimony presented at the public hearing; and

WHEREAS, on October 17, 2023, the Planning Commission approved Resolution No. 2023-040 recommending that the City Council approve MCA No. 23-001 and

determine that this Amendment is categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c), 15061(b)(3) (the common-sense exemption), and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment; and

WHEREAS, on November 3, 2023, the Planning Department publish the public hearing notice for the City Council meeting; and

WHEREAS, on November 14, 2023, the Fontana City Council (“City Council”) held a noticed public hearing for MCA 23-001 where City Council received evidence and public testimony pertaining to MCA 23-001; and

WHEREAS, the City Council carefully considered all information pertaining to MCA No. 23-001 presented at its public hearing on November 14, 2023; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals are true and correct and incorporated herein by this reference.

SECTION 2. CEQA. The City Council hereby determines that this Ordinance qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c), 15061(b)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment.

SECTION 3. General Findings. The City Council finds that the Municipal Code Amendment, ZCA No. 23-001 furthers the public health, safety, and welfare and is consistent with General Plan since it is not making any changes to the General Plan. The amendment will clarify the City Council’s intent to restrict truck entries, drive aisles, and loading docks from being located adjacent to sensitive receptors. The Amendment will assist sensitive receptors not to have truck uses abutting the property.

SECTION 4. Approval. Based on the foregoing, the City Council hereby approves ZCA No. 23-001 for the Sustainability Ordinance modification as shown as **Exhibit “A”** attached hereto and incorporated herein by reference as fully set forth herein.

SECTION 5. Effective Date/Publication. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published by the City Clerk at least once in the Fontana Herald News, a local newspaper of the general circulation, published and circulated in the City of Fontana, and henceforth and thereafter the same shall be in full force and effect.

SECTION 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of records is the City Clerk.

SECTION 7. Certification. The City Clerk of the City Council shall certify to the adoption of this Ordinance.

SECTION 8. Severability. If any provision of this Ordinance or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.

APPROVED AND ADOPTED this 14th day of November 2023.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 14th day of November 2023, and was finally passed and adopted not less than five days thereafter on the 12th day of December 2023, by the following vote to wit:

AYES:

NOES:

ABSENT:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

Exhibit “A”

Chapter 9, Article V - Industrial Commerce Centers Sustainability Standards) of the Code is hereby restated and amended as follows:

Sec. 9-71. - Buffering and screening/adjacent uses.

- (a) For any warehouse building larger than 50,000 square feet in size, a ten-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. For any warehouse building larger than 400,000 square feet in size, a 20-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. The buffer area(s) shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height, natural ground landscaping, and solid screen buffering trees, as described below, unless there is an existing solid block wall. For any warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, parks (excluding trails), prisons, dormitories, and any residence, including; private homes, condominiums, apartments, and living quarters, where such residence is not located on a parcel with an existing industrial, commercial, or unpermitted use as determined by the director of planning.
- (b) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner and any successors in interest shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.
- (c) All landscaping shall be drought tolerant, and to the extent feasible, species with low biogenic emissions. Palm trees shall not be utilized.
- (d) All landscaping areas shall be properly irrigated for the life of the facility to allow for plants and trees to maintain growth.
- (e) Trees shall be installed in automobile parking areas to provide at least 35 percent shade cover of parking areas within 15 years. Trees shall be planted that are capable of meeting this requirement.
- (f) Loading docks shall be oriented away from nearby sensitive receptors. Loading docks, truck entries, and truck drive aisles shall not abut adjacent sensitive

receptors. ~~Unless physically impossible, loading docks and truck entries shall be oriented away from abutting sensitive receptors. To the greatest extent feasible, loading docks, truck entries, and truck drive aisles shall be located away from nearby sensitive receptors. In making feasibility decisions, the city must comply with existing laws and regulations and balance public safety and the site development's potential impacts to nearby sensitive receptors. Therefore, loading docks, truck entries, and drive aisles may be located nearby sensitive receptors at the discretion of the planning director, but any such site design shall include measures designed to minimize overall impacts to nearby sensitive receptors.~~

- (g) For any warehouse building larger than 400,000 square feet in size, the building's loading docks shall be located a minimum of 300 feet away, measured from the property line of the sensitive receptor to the nearest dock door which does not exclusively serve electric trucks using a direct straight-line method.