

URGENCY ORDINANCE NO. 1959

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING SECTION NO. 30-467 OF THE CITY OF FONTANA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE STATUTORILY EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17

WHEREAS, the City of Fontana, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, state law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, numerous bills that, among other things, amend various sections of the Government Code to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in 2024, the California Legislature approved, and the Governor signed into law, Assembly Bill 2533 (“AB 2533”) and Senate Bill 1211 (“SB 1211”), which further amend state ADU law; and

WHEREAS, AB 2533 and SB 1211 take effect January 1, 2025, and if the City’s ADU ordinance does not comply with the requirements imposed by those bills by that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to reflect AB 2533’s and SB 1211’s changes to state law; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare based on the passage of AB 2533 and SB 1211 because if the City’s ordinance does not comply with this legislation by January 1, 2025 — and the City’s ADU ordinance becomes null and void — the City would thereafter be required to approve ADUs and JADUs in accordance with the few default standards that are provided in Chapter 13 of Division 1 of Title 7 of the California Government Code, which is the state ADU law; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this Ordinance as

an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council; and

WHEREAS, to protect the public safety, health, and welfare, the City Council may adopt this Ordinance as an urgency measure in accordance with Government Code section 36937, subdivision (b).

NOW, THEREFORE, the City Council of the City of Fontana does ordain as follows:

Section 1. Incorporation. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of Article 2 of Chapter 13 of Division 1 of Title 7 of the California Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 66313. Therefore, adoption of the Ordinance is statutorily exempt from CEQA in that it implements state ADU law.

Section 3. Code Amendment. Section No. 30-467 of the Fontana Municipal Code is hereby amended and restated to read in its entirety as provided in Exhibit "A," attached hereto and incorporated herein by reference.

Section 4. Effective Date. This Ordinance takes effect immediately upon its adoption.

Section 5. HCD Submittal. In accordance with Government Code section 66326, the City Clerk is directed to submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after adoption.

Section 6. Publication. The City Clerk directed to certify to the adoption of this Ordinance and post or publish this Ordinance as required by law.

Section 7. Custodian of Records. The custodian of records for this Ordinance is the City Clerk and the records comprising the administrative record are located at 8353 Sierra Avenue, Fontana, CA 92335.

Section 8. Severability. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the

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provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

APPROVED AND ADOPTED this 12th day of November, 2024.

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 12th day of November 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

EXHIBIT A

Amended ADU Regulations

(follows this page)