

URGENCY ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF FONTANA IN ACCORDANCE WITH
GOVERNMENT CODE SECTION 65858 EXTENDING A
MORATORIUM ON THE APPROVAL OF ANY BUILDING
PERMIT, OCCUPANCY PERMIT, CONDITIONAL USE
PERMIT, VARIANCE, SUBDIVISION MAP, DESIGN
REVIEW, ADMINISTRATIVE SITE PLAN REVIEW OR
OTHER LAND USE ENTITLEMENT OR PERMIT, OR
REGULATORY LICENSE OR PERMIT REQUIRED TO
COMPLY WITH THE PROVISIONS OF THE MUNICIPAL
CODE OR SPECIFIC PLAN FOR SERVICE BASED, NON-
ENTERTAINMENT USES FOR AN ADDITIONAL TEN (10)
MONTHS AND FIFTEEN (15) DAYS**

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, Government Code section 65300, et seq., allows a city to adopt a General Plan to designate its long-term goals and policies related to its respective community and future development of the city; and

WHEREAS, on November 13, 2018, the City adopted its most recent General Plan, detailing the City’s goals and objectives over the next 20 years; and

WHEREAS, Chapter 14 of the General Plan establishes the City’s intent to make its downtown a local and regional destination hub for dining, shopping and entertainment; and

WHEREAS, the City has identified Foothill Boulevard and Sierra Avenue to be primary corridors that funnel local and regional visitors to its downtown, thereby promoting the economic growth of the City; and

WHEREAS, the City observes that the Sierra Avenue corridor extends from the 10 Freeway to the 210 Freeway, and the Foothill Boulevard corridor extends from Cherry Avenue to Maple Avenue; and

WHEREAS, the City desires to create a balanced environment within its corridors to foster a similar vision to that of the downtown area; and

WHEREAS, to the extent that the land in the Sierra Avenue and Fontana Boulevard corridors is underutilized, underperforming, or inconsistent with the City’s General Plan, the City

has a responsibility to move forward with studies necessary to implement General Plan policies related to the economic corridors in order to maintain the City's vibrancy; and

WHEREAS, without the enactment of this Ordinance, multiple applicants could quickly receive entitlements that would allow for uses contrary to the City's General Plan, subjecting the City to the potential effects and impacts of uncoordinated and conflicting uses, impacts on parking availability in the downtown area of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods and effectively creating a current and immediate threat to the public health, safety, and welfare; and

WHEREAS, the City intends to study zone changes prohibiting certain service-related uses along two of its main thoroughfares (Sierra Avenue and Foothill Boulevard) in an effort to maximize economic development, sales tax generation, and encourage entertainment-related development along those corridors; and

WHEREAS, Government Code section 65858 authorizes the City to adopt an interim Urgency Ordinance to protect the public safety, health and welfare and to prohibit uses which may be in conflict with a contemplated General Plan or zoning proposal which the City is considering, studying or intends to study within a reasonable time; and

WHEREAS, on July 25, 2023, the City Council of City of Fontana adopted Ordinance No. 1922 establishing a moratorium on the approval of any building permit, occupancy permit, conditional use permit, variance, subdivision map, design review, administrative site plan review or other land use entitlement or permit, or regulatory license or permit required to comply with the provisions of the municipal code or specific plan for service based, non-entertainment uses; and

WHEREAS, the moratorium would have expired on September 8, 2023, unless extended pursuant to Government Code Section 65858, which authorizes the City Council, after notice pursuant to Government Code Section 65090 and a public hearing, to adopt an ordinance extending the moratorium for 10 months and 15 days, upon approval by a four-fifths vote, and upon making the same findings required for initial adoption of the moratorium; and

WHEREAS, Government Code Section 65858(d) requires the City Council, ten days prior to expiration of the moratorium or any extension thereof, to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the moratorium; and

WHEREAS, in accordance with Government Code Section 65858(d), the City Council has issued the ten-day report, describing the measures being taken to alleviate the conditions which led to the adoption of the moratorium; and

WHEREAS, City staff have begun researching the issues related to the zone change prohibiting certain service-related uses along two of its main thoroughfares on any property within three hundred (300) feet from the center line of the location of Sierra Avenue between the I-10 Freeway and Arrow Boulevard, and between Foothill Boulevard and the I-210 Freeway (Sierra Avenue Corridor), and on any property within three hundred (300) feet from the center line of the location of Foothill Boulevard between Cherry Avenue and Maple Avenue (Foothill Boulevard corridor), as shown on Exhibit A attached hereto and incorporated herein by this reference in an effort to maximize economic development, sales tax generation, and encourage entertainment-related development along those corridors; and

WHEREAS, City Council wishes to extend the moratorium for a period of ten (10) months and fifteen (15) days, or until the City Council adopts an ordinance addressing the issues raised, whichever occurs first; and

WHEREAS, at a duly noticed public hearing on September 5, 2023, testimony and evidence were heard and received from all persons interested in the proposal to extend the moratorium, and the City Council has reviewed, analyzed, and considered all testimony and evidence presented at such public hearing, including staff reports and presentations by City Staff.

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

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

Section 2. Moratorium. The City shall not issue or approve any building permit, occupancy permit, conditional use permit, variance, subdivision map, design review, administrative site plan review or other land use entitlement or permit; or regulatory license or permit required to comply with the provisions of the City's Municipal Code or a Specific Plan for any "Service Based, Non-Entertainment Uses" as defined herein in Section 3 on any property within three hundred (300) feet from the center line of the location of Sierra Avenue between the I-10 Freeway and Arrow Boulevard, and between Foothill Boulevard and the I-210 Freeway (Sierra Avenue corridor), and on any property within three hundred (300) feet from the center line of the location of Foothill Boulevard between Cherry Avenue and Maple Avenue (Foothill Boulevard corridor), as shown on Exhibit A attached hereto and incorporated herein by this reference. Notwithstanding any provision in this Ordinance to the contrary, the foregoing prohibition shall not apply to (a) any lawful use that existed at the time of the adoption of this Ordinance or thereafter which has ceased operation for no longer than the period set forth in sections 30-357 and 30-351 of the Fontana Municipal Code, or (b) any use set forth in Section 3 herein, which is not the primary use within any business (i.e., a use that constitutes less than fifty (50) percent of floor area and gross sales receipts).

Section 3. Definitions. “Service Based, Non-Entertainment Uses” shall mean the following uses as these uses are defined in Chapter 30:

- Acute care/walk-in medical services (urgent care)
- Adult vocational classes, trade schools, computer training
- Animal Kennel
- Animal Training, keeping or raising
- Antique restoration
- Ambulance services
- Animal hospital
- Auto body painting and repair
- Auto car alarm and stereo installation (within an enclosed building only)
- Auto car washes
- Auto driving schools
- Auto rental
- Auto rental agencies with parking for vehicle rentals
- Auto stereo, alarm, and upholstery installation or repair
- Auto storage
- Auto upholstery
- Barber, hair/nail/skincare/tanning salon, as a primary use
- Barber, hair/nail/skincare/tanning salon and day spa
- Bed and Breakfast
- Blueprinting, printing, copying, packing, mailing services as a primary use
- Body Art – tattooing body piercing and / or permanent cosmetics
- Car and Truck washes
- Cemeteries, crematory, mortuary and mausoleums
- Chemical substance abuse facility
- Check cashing/deferred deposit or payday advance uses with or without ancillary services
- Children tutorial classes
- Cleaners / laundry
- Clinic – medical, dental or cosmetic
- Clothing and costume rental
- Community Care Facility
- Convalescent Hospital
- Commercial day care
- Dress maker or millinery shop
- Dry cleaners/laundry—non-commercial
- Equipment Rental
- Equipment and Appliance Repair

- Fortunetelling
- Funeral parlors
- Furniture refinishing
- Furniture upholstery
- Homeless Shelters
- Hospitals
- Hotels / Motels (less than 50 rooms)
- Jewelry repair, as a primary use
- Laundromat
- Locksmith
- Locksmith/key shops
- Machine Shop
- Massage / Acupressure as a primary use
- Massage as ancillary use to primary permitted use—less than 40% of gross floor area of business
- Medical/dental/counseling/psychology/hearing aids/acupuncture/homeopathy/physical therapy/sports therapy
- Medical services
- Mortuary
- Nail salon
- Nursing Home
- Pet boarding
- Pet boarding and kennels
- Pet grooming
- Photography Studios
- Photocopying and photo developing (retail)
- Postal services/mail box rentals
- Private Schools (pre-K-12)
- Publishing establishments
- Self-storage facility
- Shoe Repair
- Tailor and alterations
- Traffic and automobile driving schools
- Traffic schools
- Trailer rental
- Trailer repair
- Trailer custom repair
- Truck Driving Schools
- Truck Fueling

- Truck rental
- Truck body painting and repair
- Truck repair including customization
- Truck stereo, alarm, and upholstery installation or repair
- Truck Storage
- Veterinarian clinic and hospitals (with incidental boarding)

Section 4. Extension. The Ordinance was adopted on July 25, 2023 and is hereby extended for an additional ten (10) months and fifteen (15) days beyond its original expiration date to July 23, 2024. Thereafter, this moratorium extension shall be of no further force and effect unless, after a duly noticed public hearing, the City Council further extends the moratorium for an additional period of time pursuant to Government Code Section 65858.

Section 5. Compliance with California Environmental Quality Act. The City finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of zoning code revisions and related impact studies.

Section 6. Effective Date. This Ordinance was adopted by the necessary four-fifths vote of the members of the City Council pursuant to Government Code section 65858, shall take effect on September 8, 2023, and shall remain in effect until July 23, 2024.

Section 7. Written Report. At least ten (10) days before this Ordinance or any extension expires, the City Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this Ordinance.

Section 8. Publishing. The City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within fifteen (15) days after adoption in a newspaper of general circulation, printed and published in San Bernardino, California.

Section 9. Term. This Ordinance is an Urgency Ordinance, enacted pursuant to Government Code section 65858. The term of this Ordinance shall be for ten (10) months and fifteen (15) days and shall expire and be of no further force or effect, unless and until extended in accordance with Government Code section 65858.

Section 10. The Custodian of Records for this Ordinance is the City Clerk and the records comprising the administrative record for this Ordinance are located at 8353 Sierra Avenue, Fontana, California 92335.

Section 11. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED by the City Council of the Fontana California, at a special meeting of the City Council held on the 5th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

City of Fontana

Acquanetta Warren, Mayor

ATTEST:

Germaine McClellan Key, City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

Ruben Duran, City Attorney

Ordinance 1022 Exhibit A
Sierra Ave and Foothill Blvd
Moratorium Parcels Within 300 Feet of Center Line

