

ORDINANCE NO. 1988

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, AMENDING ARTICLE XV PERTAINING TO PROVISIONS OF THE NO NET LOSS PROGRAM INCLUDING SECTIONS 30-966 THROUGH 30-969 AND SECTIONS 30-971 AND 30-972, PURSUANT TO A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTIONS 15060(C), 15061(B)(3), AND SECTION 15378 AND DIRECTING STAFF TO FILE A NOTICE OF EXEMPTION.

WHEREAS, pursuant to 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, Government Code sections 50022.1 to 50022.10 authorize a city to codify and recodify its ordinances; and

WHEREAS, through Municipal Code Amendment (“MCA”) No. 26-0002, the City of Fontana (“City”) desires to restate without substantive revision, amend and recodify certain ordinances codified in the Fontana Municipal Code (“FMC”); and

WHEREAS, the City of Fontana General Plan (“General Plan”) includes policies and actions calling for numerous updates to the FMC; and

WHEREAS, Article XV. No Net Loss Program Sections 30-966 through 30-969 and Sections 30-971 and 30-972 are amended to modify program provisions related to allowable zoning district, minimum lot size, development standard application, unit bank capacity, and the memorialization of the use of the unit bank; and

WHEREAS, the amendments in MCA No. 26-0002 are consistent and compatible with the General Plan and are in line with goals, policies and objectives of the City, the Housing Element policies and the Zoning and Development Code; and

WHEREAS, the amendments in MCA No. 26-0002 are in conformity with appropriate land use practices and will establish appropriate development standards for the land use designations; and

WHEREAS, the amendments in MCA No. 26-0002 attached hereto as Exhibit “A” and incorporated herein by reference, will not be detrimental to the public health, safety and general welfare, nor will it adversely affect the orderly development of property; and

WHEREAS, on April 21, 2026, the Fontana Planning Commission (“Planning Commission”) held a public meeting on MCA No. 26-0002 where it received evidence and

public testimony on the Code amendments and recommended that the Fontana City Council ("City Council") determine that the amendments are exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c), 15378, and 15061(B)(3) (the common-sense exemption), and Sections No. 3.01, 3.22, and 10.59 of the 2019 Local Guidelines for Implementing CEQA. in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the municipal code amendments, including the staff report, and all the information, evidence, and testimony presented at its public hearing on April 21, 2026; and

WHEREAS, on May 26, 2026, the City Council held a public hearing on MCA No. 26-0002 where City Council received evidence and public testimony pertaining to the Zoning and Development Code amendments and documentation from the Planning Commission's public hearing on April 21, 2026; and

WHEREAS, the City Council carefully considered all information pertaining to MCA No. 26-0002 that was presented at its public hearing on May 26, 2026; and

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

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

Section 1. Recitals. The above recitals are true, correct and incorporated herein by reference.

Section 2. CEQA. The City Council hereby determines that the code amendments are exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c), 15378, and 15061(B)(3) (the common-sense exemption) and Sections 3.01, 3.22, and 10.59 of the 2019 Local Guidelines for Implementing CEQA. Staff is directed to file a Notice of Determination pursuant to the foregoing.

Section 3. Municipal Code Amendment Findings. The City Council hereby makes the following finding for MCA No. 26-0002 in accordance with Section 30-40 "Purpose" of the Fontana Zoning and Development Code:

Finding: **A Zoning and Development Code may be amended by changing the development standards (text) or zoning designation map boundaries of any zone whenever such an amendment is deemed necessary to protect or promote the public's health, safety or general welfare or when modification is viewed as**

appropriate in the context of generally accepted planning principles, surrounding land uses, and the General Plan.

Finding of Fact: The proposed Municipal Code Amendment will provide modifications to the No Net Loss Program, making it more feasible to utilize units deposited into the unit bank. The modifications will also ensure clarity and provide more assurances in the development process as it pertains to the utilization of the No Net Loss Program units. This will streamline the City's development requirements and processes while facilitating an increase in housing development. As such, it promotes the General Plan goals of adequate housing to meet the needs of all residents in Fontana.

Section 4. Development Code Amendment Approval. Based on the foregoing, the City Council hereby approves the amendments as set forth in MCA No. 26-0002, which is attached hereto as Exhibit "A" and incorporated herein by reference as fully set forth herein.

The City Council further stipulates that the ordinance adopting the amendments to the Zoning and Development Code, under MCA No. 26-0002, does not apply to development applications deemed complete by the City of Fontana Planning Department prior to the ordinance's effective date. The City Council also stipulates that any such completed pre-adoption applications not conforming to these amendments after the ordinance's effective date, once approved by the appropriate approving body, be granted legal non-conforming status, with all applications deemed complete on or after the ordinance's adoption being subject to its provisions.

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 16860 Valencia Avenue, Fontana, CA 92335. The custodian of records is the City Clerk.

Section 7. Certification. The City Clerk of the City Council shall certify 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 9th day of June 2026.

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 26th day of May 2026, and was finally passed and adopted not less than five days thereafter on the 9th day of June 2026, 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”

AMENDMENT TO FONTANA MUNICIPAL CODE CHAPTER 30

(*Additions shown in underline, deletions shown in ~~strikeout~~)

ARTICLE XV. NO NET LOSS PROGRAM

Sec. 30-965. Purpose and authority.

The City desires to ensure its compliance with Senate Bill 330 (SB330) and establish a no Net Loss Density Bonus Program for certain residential projects. This chapter provides, concurrent with the approval of any change in zone from a residential use to a less intensive or non-residential use, a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City. In doing so, the proposed Section will ensure that there is no net loss of residential capacity within the City as required by SB330.

On October 9, 2019, the California Legislature adopted SB330 which, among other things, adopted Government Code § 66300, declared a housing crisis in the State of California and imposed certain requirements designed to streamline the construction of new housing, and prevent the loss of existing housing and land available for future residential use, unless the City concurrently changes the development standards, policies, and conditions applicable to other areas of the affected jurisdiction to ensure no net loss in residential capacity. SB330 became effective on January 1, 2020.

Sec. 30-966. Definitions.

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

Density Bonus. A density increase of up to those percentages above the otherwise maximum residential density as specified in this chapter.

~~*Density Bonus/Transfer Agreement.* A legally binding agreement between a developer of a Housing Development and the City containing such terms and conditions as determined by the City Attorney, which ensures that the requirements of this chapter are satisfied.~~

Density Bonus Units. Those residential units granted pursuant to the provisions of this chapter, that exceed the maximum residential density for the development site and that are available in the Unit Bank.

Director of Planning. The Director of Planning of the City of Fontana.

Housing Development. Construction projects consisting of five or more residential units or Lots, including single-family and multifamily, that are proposed to be constructed pursuant to this chapter.

Lot. (1) a Lot when shown as a delineated Lot of land with a number or other designation on a parcel map or tract map and not to be used for the common benefit of other Lots recorded in the Office of the County Recorder of San Bernardino County and

legally created under the Subdivision Map Act ; (2) a Lot of land held under separate ownership from adjacent property that constitutes a legal lot under applicable Law.

Maximum Residential Density. The maximum number of residential units permitted by the City's General Plan Land Use Element and Zoning and Development Code, applicable to the subject property at the time an application for the construction of a Housing Development is deemed complete by the City, excluding the additional units permitted by this chapter.

Unit Bank. The number of units available to the No Net Loss Program as a result of a change of zone from a residential use to a less intensive residential use or a non-residential use. The Director of Planning, or his or her designee, shall have the sole authority to administer and maintain the Unit Bank balances, credits and availability as he or she determines, which determination shall be final.

Sec. 30-967. Requirements.

The City shall grant a density bonus through the No Net Loss Program to projects which meet the following criteria:

- ~~(1)~~ ~~The project is on a parcel of at least one acre, or the applicant is processing an application concurrently with a parcel merger of two or more Lots or more which will create a Lot of not less than one acre.~~
- ~~(2)~~(1) The project takes place in one of the following residential zones in the City:
 - a. Residential Estate (R-E).
 - b. Single-Family Residential (R-1).
 - c. Medium-Density Residential (R-2).
 - d. High-Density Residential (R-3).
 - e. Multi-Family Medium-High Residential (R-4).
 - f. Multi-Family/High Residential (R-5).
 - g. Residential Planned Community (R-PC).
 - h. Form-Based Code (FBC).
- ~~(3)~~(2) In determining the number of Density Bonus Units to be granted (transferred) pursuant to this section, the maximum allowable residential density for the site shall be calculated as follows:
 - a. Multiplying the maximum density allowed under the applicable zoning designation and multiplying the result by 1.2 for a 20 percent density bonus. If the result, including the density bonus, contains a fraction of a unit, the number of allowable units shall be determined by rounding down to the nearest whole number if the fraction is below 0.5. Calculations containing fractions of 0.5 or above shall be rounded up.

- b. Density bonuses in the No Net Loss Program can be combined with other density bonus programs as established in Article II, Division 25 - Density Bonus of the Fontana Municipal Code.
 - 1. In no case shall the number of No Net Loss/Density Bonus Units awarded under the No Net Loss Program exceed the number of units in the Unit Bank.
 - 2. In no case shall the number of No Net Loss/Density Bonus Units available in the Unit Bank exceed ~~2,200~~ 1,600 units.
- ~~(4)~~(3) A Density Bonus/Transfer Agreement shall be required for any project seeking a density bonus as part of the No Net Loss Density Bonus Program.
- ~~(5)~~(4) The Planning Department shall publish the available number of units available in the Unit Bank on the Planning Department's page on the City's website. The number of units available is expected to change periodically and, as such, any information contained on the City's website, or any other published source shall be considered draft for informational purposes only. Confirmation of the number of units available shall be made upon submittal of a development application, including the payment of appropriate fees.

Sec. 30-968. Types of bonuses allowed.

- (a) Density Bonus. The density bonus allowed by this chapter shall consist of those density increases specified in Section 30-967 above the maximum residential density applicable to the site as of the date of the project land use permit application.
- (b) Mixed use zoning allows the Housing Development to include nonresidential uses. Approval of mixed-use activities in conjunction with the No Net Loss program is permissible if authorized elsewhere under the Fontana Municipal Code and subject to those requirements. A density bonus will be granted only for the residential portion of a mixed use development.

Sec. 30-969. Development standards.

~~All development standards for the base zone and/or overlay district shall be met. Granting of a density bonus does not constitute approval of or grounds for modification or waiver of any development standard or other requirement of the Fontana Municipal Code.~~

A proportional adjustment (up to 20%) shall be allowed for the following development standards: building setbacks, minimum lot area and dimensions, and lot coverage.

Sec. 30-970. Processing of no net loss program requests.

An Application which proposes to change a land use designation or zoning ordinance to a less intensive use may request concurrent approval by the City Council to transfer the unit reduction to a No Net Loss Density Bonus Bank for the purpose of complying with SB330.

An Application which proposes to utilize units available in the No Net Loss Density Bonus Bank shall submit a density bonus transfer application in conjunction with the permit and entitlement application submittal package required for the project. A density

bonus transfer application pursuant to this chapter shall be processed along with the application for development. The process for obtaining preliminary approval of the Density Bonus Transfer Agreement, shall be as follows:

- (1) Filing. An applicant proposing a Housing Development pursuant to this chapter shall submit a concurrent application for a Density Bonus Transfer Agreement as part of the submittal of any formal request for approval of a Housing Development. The application, whether a pre-application or a formal application, shall include:
- (2) A general description of the proposed project, general plan description, applicable zoning, maximum possible density permitted under the current zoning and general plan description and such other information as is necessary.
- (3) A calculation of the density bonus allowed pursuant to this division.
- (4) A statement detailing the number of density bonus units being proposed over and above the number of units normally permitted by the applicable zoning and general plan description.
- (5) City review of and action on the applicant's proposal for a density bonus shall occur concurrently with the processing of any other required entitlements, if any. The fact that another required entitlement might be subject to discretionary approval does not subject the application for a density bonus/transfer under this section to discretionary approval; they will merely be processed at the same time.

Sec. 30-971. No net loss program density bonus agreement memorandum.

- (a) The terms of the ~~draft~~ density bonus/transfer agreement (Agreement) shall be ~~reviewed and revised~~ documented as appropriate in a project memorandum requested by the applicant and issued by the Director of Planning and the City Attorney for final approval. ~~(b) At a minimum, the Agreement memorandum shall include the following:~~
 - ~~(1) The total number of units, both permitted and available through the density bonus/transfer, proposed within the Housing Development;~~
 - ~~(2) A schedule for completion and occupancy of the units; and~~
 - ~~(3) A description of remedies for breach of the Agreement by either party.~~
- (b) A project that qualifies for a unit bank density bonus and complies with all other objective development standards inclusive of those standards modified by the No Net Loss program shall have its unit bank request processed ministerially by the City within 30 days of the City's receipt of written correspondence indicating that the project seeks a unit bank density bonus.

Sec. 30-972. Implementation.

- (a) The provisions of this chapter shall be administered by the Planning Department.
- (b) Projects requesting density bonus/transfer through this No Net Loss Program are subject to processing through the requirements in this chapter.

- (c) A project that qualifies and uses a unit bank density bonus and complies with all other objective development standards shall be considered consistent with local objective development standards for the purpose of any applicable state law.