
INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS ORDINANCE

California Environmental Quality Act (CEQA)
Sections 15061(B)(3), 15307, and 15308
Exemption Memorandum
MCA No. 21-001

ATTACHMENT NO. 4

INTRODUCTION

The City of Fontana, the Lead Agency, is initiating a Municipal Code Amendment No. 21-001, which would amend Chapter 9 of the Municipal Code to add Article V to establish conditions, regulations, and standards to require sustainability measures for warehouse (industrial commerce center) developments throughout the city. The proposed Municipal Code Amendment is exempt from environmental review pursuant to State CEQA Guidelines Sections 15061(B)(3), 15307, and 15308, which are further described below.

PURPOSE OF NOTICE OF EXEMPTION

Article 19 of the California Environmental Quality Act (CEQA) Guidelines includes, as required by Public Resources Code Section 21084, a list of classes of projects which have been determined not to have a significant effect on the environment. This document demonstrates that the proposed project qualifies for at least three independent CEQA Exemptions. Each exemption on its own would exempt the whole of the project from environmental review.

PROPOSED PROJECT

The City initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for all industrial commercial center developments throughout the city.

The proposed Ordinance for Municipal Code Amendment (MCA) No. 21-001 includes additional sustainability requirements and standards that are intended to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures with regard to warehouse (industrial commercial center) developments.

All discretionary processes remain in place with regard to Administrative Site Plan and Design Review in Article II of Chapter 30 and in the applicable Specific Plans throughout the City that allows for the establishment of appropriate conditions of approval and mitigation measures.

The following is the summary of the new Article that includes sustainability measures requirements for industrial commerce center developments:

Buffering and Screening / Adjacent uses.

- (1) For any Warehouse larger than 50,000, a ten-foot-wide landscaping perimeter buffer shall be required when adjacent to any sensitive receptors. The perimeter buffer area shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height and solid screen buffering

trees, as described below. 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 any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, prisons, and dormitories.

- (2) 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 shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.
- (3) If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

Signage and Traffic Patterns.

- (1) Entry gates into the loading dock/truck court area shall be positioned at a minimum of 140 feet inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 40 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited. Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification).
- (2) Anti-idling signs indicating a 3-minute idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.
- (3) Facility operators shall establish and enforce a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the proposed use, including, but not limited to, hours of operations, numbers of employees, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing residential and educational uses, to the greatest

extent physically possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. A speculative project for which no operator has been identified shall base its truck routing plan on an Institute of Transportation Engineers (11th Generation) designation of ITE Code 150.

- (4) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.
- (5) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee or operation related vehicle is strictly prohibited.
- (6) Legible, durable, weather-proof signs shall be installed at all truck exit driveways directing truck drivers to the truck route and State Highway System.
- (7) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors on this site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664.

Alternative Energy.

- (1) On-site motorized operational equipment shall be ZE (zero emission).
- (2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.
- (3) On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.
- (4) Not less than 10% of all required passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. Not less than 5% of all required passenger vehicle parking spaces shall be EV ready, with working charging stations installed and operational, prior to building occupancy.

- (5) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 50% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units to plug in.
- (6) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-7124 of the Zoning and Development Code. The racks shall include electric plugs to charge electric bikes.

Operation and Construction.

- (1) Cool surface treatments shall be added to drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement.
- (2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building.
- (3) Use of low VOC paints shall be required.
- (4) The facility operator shall incorporate a recycling program.
- (5) The following environmentally responsible practices shall be required during construction:
 - a. The applicant shall use reasonable best efforts, as determined by the Planning Director, to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director.

- b. Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.
- c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge if the utility provider can provide temporary power for this purpose.
- d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.

(6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

EXEMPTION EXPLANATION

The proposed City-initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability requirements for industrial commerce center developments throughout the City is a project as defined by Section 15378 of the CEQA Guidelines. As required by Section 15061(b) of the CEQA Guidelines, the City evaluated the proposal to determine if the project is exempt from CEQA. A project may be exempt if any one of the following criteria is met:

(1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).

There are no applicable statutory exemptions that would apply to the proposed project.

(2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

Section 15307 (Class - 7 Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Class 8 - Actions by Regulatory Agencies for Protection of the Environment) concerning actions taken to maintain, restore, or enhance a natural resource, and actions taken to ensure the maintenance, restoration, enhancement, or protection of the environment, apply here as the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle queuing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Alternative energy requirements include the following: ZE (zero emission) equipment, solar ready roofs, building over 400,000 square feet to install roof top solar, some passenger vehicle parking spaces shall incorporate electric charging stations, installation of conduit and electric plug-in units at dock doors to accommodate transport refrigeration units to plug-in for refrigeration users, and bicycle racks to have electric plugs to charge bikes. For more detailed information, a comprehensive list is included in the previous section. Further no relaxation of current development requirements is proposed.

Although the installation of walls, landscaping, and solar panels, or other required sustainability features may involve minor additional activities, this work is ancillary in nature to, and will be installed with, the primary structure and other associated improvements. Also, the required sustainability measures; such as utilizing the highest rated CARB tiered technology equipment along will further reduce any potential installation impacts.

The implementation of alternative energy requirements for industrial commerce centers, as outlined in the Ordinance, will provide a renewable electric resource for development and reduce dependence on non-renewable electric resources. Further, the new regulations as they relate to signage, parking, access, and onsite/offsite circulation would lessen potential emission and vehicle impacts relating to queuing and ensure that vehicles can reach arterial streets, truck routes, and freeways efficiently by traveling as few miles as possible while avoiding residential and educational uses.

The new queuing standards would help keep trucks from backing up onto public streets, and prohibit trucks from circling in public streets, which will reduce public safety issues and improve air quality.

Finally, requiring the installation of electric vehicle charging infrastructure will encourage and enable the use of electric vehicles, reducing Green House Gas emissions. Therefore, the sustainability requirements overall would impose greater limitations on industrial commercial centers development than exist today thus serving to maintain, restore, or enhance a natural resource, and to ensure the maintenance, restoration, enhancement, or protection of the environment.

(3) The activity is covered by the common-sense exemption in CEQA Guidelines Section 15061(b)(3), which provides that CEQA applies only to projects which have the potential

for causing a significant effect on the environment. Where it can be seen 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.

The proposed project Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City would overall impose greater limitations on industrial commerce center development than exist today, and will function to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures as discussed in the above Section 2 discussion. This proposed Ordinance does not change building heights, floor area ratio requirements, or lighting requirements. However, it will include additional screening requirements, enhance landscaping by requiring larger trees, impose alternative energy requirements to improve environmental quality and reducing potential impacts. Further, all projects involving the construction of an industrial commerce center will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

(4) The project will be rejected or disapproved by a public agency.

City staff is recommending approval of the proposed project.

(5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

The proposed industrial commerce center sustainability standards do not include any agricultural housing, affordable house, and residential infill components.

EXCEPTIONS FOR EXEMPTIONS

In addition to investigating the applicability of CEQA Guidelines, this CEQA document also assesses whether any of the exceptions to qualifying for the categorical exemption are present. The following analysis compares the criteria of CEQA Guidelines Section 15300.2 (Exceptions) to the project.

Criterion 15300.2(a): Location: Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The City is not recommending finding the proposed Industrial Commerce Center Suitability Standards Ordinance project exempt under Classes 3, 4, 5, 6 or 11. Therefore, the exception under criterion 15300.2(a) is not applicable.

Criterion 15300.2(b): Cumulative Impact: All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

As discussed previously, the project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City is consistent with the General Plan and does not change any of the Land Use Designation of any properties. Furthermore, the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle cueing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Each of these components, individually and cumulatively does not result in the possibility of creating significant to cumulative effects on the environment. As described in the above sections, construction of any industrial commerce center buildings will be subject to discretionary planning entitlements with separate CEQA review and documentation. Therefore, the exception under CEQA Guidelines Section 15300.2 (b) does not apply to the project.

Criterion 15300.2(c): Significant Effects: A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

There are no known unusual circumstances that are applicable to the project that may result in a significant effect on the environment. The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The project is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences. Therefore, the exception under CEQA Guidelines Section 15300.2(c) does not apply to the project.

Criterion 15300.2(d): Scenic Highways: Scenic Highways: A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The City of Fontana does not have any properties designated as a scenic highway corridor. Therefore, the exception under CEQA Guidelines Section 15300.2(d) does not apply to the project.

Criterion 15300.2(e): Hazardous Waste Sites: Hazardous Waste Sites: A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation that includes a review of Section 65962.5 of the Government Code. No project located on a site which is included on any list compiled pursuant to Section 65962.4 of the Government Code would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(e) does not apply to the project.

Criterion 15300.2(f): Historical Resources: A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resources.

Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation where a review of historical resources will be conducted. No project which may cause a substantial adverse change in the significance of historical resources would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(f) does not apply to the project.