

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING CHAPTER 9 OF THE FONTANA MUNICIPAL CODE TO ADD ARTICLE V TO ESTABLISH SUSTAINABILITY STANDARDS FOR THE REGULATION OF AIR AND ENVIRONMENTAL QUALITY FOR THE DEVELOPMENT OF INDUSTRIAL COMMERCE CENTERS.

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

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

WHEREAS, on or about May 7, 2021, the governing board of the South Coast Air Quality Management District (“SCAQMD”) adopted Rule 2305, the Warehouse Indirect Source Rule (“Rule 2305”); and

WHEREAS, Rule 2305 requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide and diesel particulate matter emissions, or to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities; and

WHEREAS, SCAQMD has also adopted Rule 402 prohibiting emissions that cause injury and/or annoyance to a substantial number of people, including odors; Rule 403 requiring dust control measures during construction; Rule 1113 requiring the use of low Volatile organic compounds (“VOC”) paints and coatings; Rule 1186 requiring use of SCAQMD certified street sweepers; and Rule 2202 requiring establishment of rideshare programs for facilities employing more than 250 employees; and

WHEREAS, the California Air Resources Board (“CARB”) adopted Rule 2485 restricting diesel engine idling to five minutes or less; and

WHEREAS, California Building Standards Commission adopted Part 11, Title 24 of the California Code of Regulations, known as CALGreen, which generally requires low energy use features, low water use features, all-electric vehicle (“EV”) parking spaces and charging facility accommodation, carpool/vanpool parking spaces, and short-term and long-term bicycle parking facilities; and

WHEREAS, the City currently regulates industrial commerce center development in Specific Plan Areas, as well as pursuant to Chapter 30 of the Zoning and Development Code; and

WHEREAS, the City Council requested staff to research air quality improvement and other measures related to industrial commerce center development projects; and

WHEREAS, on September 14, 2021, the results of the requested research were presented at a joint Planning Commission and City Council workshop; and

WHEREAS, the City desires to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures for all industrial commerce center developments; and

WHEREAS, the City initiated Municipal Code Amendment (MCA) No. 21-001 amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish air and other environmental quality sustainability standards for warehouses (industrial commerce centers) throughout the city that will include standardize requirements with the objective to improve air and environmental quality; and

WHEREAS, on December 21, 2021, the Planning Commission received public testimony and evidence presented by the applicant, City staff, and other interested parties, at the Public Hearing held with respect hereto on Municipal Code Amendment (MCA) No. 21-001; and

WHEREAS, December 21, 2021, the Planning Commission approved Resolution No. PC 2021-050 and recommended approval to City Council of Municipal Code Amendment (MCA) No. 21-001 and after carefully considering all information pertaining to the proposed project, including the staff report, and all the information, evidence, and testimony presented at its public hearing on December 21, 2021; and

WHEREAS, On January 25, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (MCA) No. 21-001, and the supporting documents in evidence, the City Council found that the Municipal Code Amendment is in conformance with General Plan and does not change any of the Land Use Designations of any properties and it 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; and

WHEREAS, a notice of the public hearing was published in the local *Fontana Herald* newspaper on Friday, January 14, 2022 and posted at City; and

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

SECTION 1. The recitals above are true and correct and are fully incorporated herein.

SECTION 2. Current Article I is hereby renumbered as Article II and the title is amended to read as follows: "Hazardous Waste Management Plan."

SECTION 3. Current Article II is hereby renumbered as Article III.

SECTION 4. Current Article III is hereby renumbered as Article IV.

SECTION 5. Article I is hereby amended to read as follows: “This Chapter sets forth the requirements for environmental protection and resource extraction. The requirements of this Chapter are general in nature and apply to all of the articles, sections, and codes adopted by this Chapter.”

SECTION 6. Article V of Chapter 9 of the Fontana Municipal Code is hereby added to read as follows:

ARTICLE V. – Industrial Commerce Centers Sustainability Standards

Sec. 9-70. – Applicability.

This Article is applicable to all Warehouse uses throughout the city, as defined in Section 30-12 of Chapter 30, Article 1, Division 4; and as listed as a type of “Warehousing Use” in Table No. 30-530 and includes all warehouse uses in Specific Plans. The following sections shall supersede any existing requirements in the Municipal Code and Specific Plans.

Sec. 9-71. – 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.

Sec. 9-72. – 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.

Sec. 9-73. – 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.

Sec. 9-74. – 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 physical 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.

SECTION 7. Based on the foregoing, the City Council determines that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 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. The Council hereby directs staff to prepare, execute and file with the San Bernardino County Clerk a notice of exemption within five working days after the adoption of this Ordinance.

SECTION 8. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 9. This Ordinance shall take effect thirty (30) days after the date of its adoption.

SECTION 10. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana. The City Clerk is the custodian of records for this Ordinance and the records are available at 8353 Sierra Avenue, Fontana CA 92335.

APPROVED AND ADOPTED this 25th day of January 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Tonia Lewis, 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 duly and regularly

adopted by the City Council at a regular meeting on the 25th day of January, 2022 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