

RESOLUTION NO. PC 2026 - _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA, CALIFORNIA, RECOMMENDING THAT THE FONTANA CITY COUNCIL ADOPT AN ORDINANCE APPROVING AMENDMENTS TO MULTIPLE SECTIONS OF THE FONTANA MUNICIPAL CODE, INCLUDING AMENDMENTS TO SEC. 30-12 PERTAINING TO THE DEFINITION OF ACCESSORY USE, PRINCIPAL/PRIMARY USE, VEHICLE AND TRUCK STORAGE AND VEHICLE AND TRUCK PARKING; SEC. 30-21 PERTAINING TO THE EXPIRATION OF ENTITLEMENT APPLICATIONS; SEC. 30-360 PERTAINING TO OUTDOOR DINING IN THE PUBLIC RIGHT-OF-WAY IN THE DOWNTOWN CORE; SEC. 30-371.2 PERTAINING TO PARKING REQUIREMENTS FOR RETAIL, ENTERTAINMENT AND RESTAURANT USES IN THE DOWNTOWN CORE; SEC. 30-390 TO CORRECT SECTION REFERENCES; ARTICLE XV PERTAINING TO PROVISIONS OF THE NO NET LOSS PROGRAMM 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.

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 General Plan includes policies and actions calling for numerous updates to the FMC; and

WHEREAS, Section 30-12. – List of definitions. is amended to modify the definition of primary/principal land use and accessory land use and to add definitions for vehicle and truck storage and vehicle and truck parking; and

WHEREAS, Section 30-21. – Expiration of application. is amended to correct a reference to the Planning Department and Director of Planning and remove the statement that inactivity is required to withdraw entitlement applications that have not been deemed complete within 180 days of submittal; and

WHEREAS, Section 30-360. – Special use regulations. is amended to modify the standards and permit requirements for outdoor dining in the downtown core; and

WHEREAS, Section 30-371.2. Sierra core. is amended to eliminate the parking requirement for retail, entertainment and restaurant uses in the downtown core located within 400 feet of a City-owned parking lot or structure; and

WHEREAS, Section 30-390. Off-street parking and loading standards. is amended correct a section reference; 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 Fontana Planning Commission (“Planning Commission”) recommends that the Fontana City Council (“City Council”) determine that the amendments are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c), 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. Furthermore, Planning Commission recommends that City Council finds that the amendments are nonetheless exempt from the requirements of 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, on April 21, 2026, 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, the amendments are consistent with the General Plan, and that the updates 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 will be in conformity with best land use practices and will establish appropriate development standards for the land use designations; and

WHEREAS, the amendments to the FMC are attached hereto as Exhibit “A” and incorporated herein by this reference; and

WHEREAS, the amendments will not be detrimental to the public health, safety, and general welfare, will not adversely affect the orderly development of property, will better express the City’s policies, and will generally promote good land use planning and regulation; and

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

NOW, THEREFORE, the Planning Commission RESOLVES as follows:

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

Section 2. CEQA. The Planning Commission hereby recommends that the City Council determine that this ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guidelines Sections 15060(c), 15061(B)(3) (the common-sense exemption), and 15378 and Sections No. 3.01, 3.22, and 10.59 of the 2019 Local Guidelines for Implementing CEQA, that this Ordinance is nonetheless exempt from the requirements of 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.

Section 3. Municipal Code Amendment. The Planning Commission hereby makes the following finding for MCA No. 26-0002 in accordance with Section 30-45(b) "Hearing-Planning Commission" development code amendments of the Fontana Zoning and Development Code:

Finding: **The proposal substantially promotes the goals of the City's general plan.**

Finding of Fact: The proposed Municipal Code Amendments will clarify and streamline the City's development requirements and processes while facilitating housing, commercial development and supporting the business community. As such, they promote the General Plan goals of adequate housing to meet the needs of all residents in Fontana and promoting a diversified economy.

Section 4. Recommendation of Approval. Based on the foregoing, the Planning Commission hereby recommends that the City Council adopt an ordinance approving MCA No. 26-0002 to amend multiple sections of the FMC as indicated in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 5. Resolution Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code section 21081.6.

Section 6. Certification. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

Section 7. Effective Date. This Resolution shall become effective immediately

upon its adoption.

Section 8. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this Resolution that can be given effect without the invalid provision or application.

APPROVED AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this 21st day of April 2026.
City of Fontana

Joseph Armendarez, Chairperson

ATTEST:

I, Torrie Lozano, Secretary of the Planning Commission of the City of Fontana, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 21st day of April 2026, by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Torrie Lozano, Secretary

“EXHIBIT A”

AMENDMENT TO FONTANA MUNICIPAL CODE CHAPTER 30

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

“EXHIBIT A”

AMENDMENT TO FONTANA MUNICIPAL CODE CHAPTER 30

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

Article I. – GENERAL PROVISIONS AND DEFINITIONS

Sec. 30-12. – List of definitions.

Accessory dwelling unit means a residential dwelling unit that provides independent living facilities: including permanent provisions for living, sleeping, eating, cooking, and sanitation, for one or more persons.

- (1) An accessory dwelling unit may be located within a legally established primary dwelling or legally established accessory structure. The existing space of a legally established primary dwelling means the space within the building envelope of the dwelling, which includes basements, attics, and garages, accessory structures.
- (2) An accessory dwelling unit could also include an efficiency unit, as defined in California Health and Safety Code § 17958.1, and a manufactured home, as defined in California Health and Safety Code § 18007.

Accessory use means a use of land, building, or portion thereof which is subordinate to the principal use of the land or building and located on the same lot with such principal use. Accessory uses occupy a maximum of 35% of the overall floor area or site area (for outdoor land uses), whichever is less.

Acreage, gross means all land within a defined area, including private ownerships and future public rights-of-way, easements, etc.

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Pre-zoning means the act of designating, in advance of annexation, the district to be applicable to a site upon subsequent annexation of that site to the City of Fontana.

Primary/principal use means a use which acts as the main function of a site as it relates to intensity, square footage, activity and/or traffic generation. Primary/principal uses occupy a minimum of 65% of the overall floor area or site area (for outdoor land uses).

Private club means a building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members and not primarily for profit,

and whose members meet certain prescribed qualifications for membership and pay dues.

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Parking structure means a structure used for the parking of vehicles where parking is accommodated on two or more levels.

Parking, vehicle and truck means leaving a vehicle temporarily at/on an off-street facility designed and designated primarily for the parking of empty commercial vehicles, trailers, trucks and buses. Vehicle and truck parking does not include leaving vehicle overnight.

Parks, public means an open space intended for public recreational use which is operated by the City.

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Statuary, retail sales. See "nursery."

Storage, vehicle and truck means leaving a vehicle at/on an off-street facility designed and designated primarily for leaving vehicles overnight.

Structure means anything constructed or built. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

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Remainder of section to remain unchanged

Sec. 30-21. - Expiration of application.

If the applicant does not provide the information and materials necessary for a pending application to be deemed complete within 180 days after written notification of incompleteness ~~and there has been no activity on the project~~, the application shall expire and be deemed withdrawn. The Director of ~~Community Development~~ Planning may grant one 180-day extension provided the request is made in writing prior to the expiration date. ~~Planning Division~~ Department may refund any unexpended portion of the application fee. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property. The Director shall provide written notice to the applicant and shall also notify the applicant of the opportunity for appeal.

Sec. 30-360. Special use regulations.

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- (c) *Outdoor dining in the public right-of-way.* The purpose of the regulations and standards in this section are to allow increased business and pedestrian traffic, encourage appropriate outdoor dining opportunities within public rights-of-way and to ensure that the space used for outdoor dining within the public right-of-way will service a public purpose. This section does not apply to outdoor dining on private property.
- (1) *Location permitted.* Outdoor dining areas within the public right-of-way are permitted on all commercially utilized properties, provided all development standards are met.
- (2) *Permits required.* ~~It shall be unlawful for any business to use the public sidewalk and/or public right-of-way for outdoor dining without first obtaining a valid minor use permit and encroachment permit.~~
- a. Minor outdoor dining. Outdoor dining projecting no more than four feet from the building façade where the restaurant entry is located and meeting all design and operational standards shall obtain an encroachment permit from the City Engineer.
- b. Major outdoor dining. Outdoor dining projecting more than four feet from the building façade where the restaurant entry is located and meeting all design and operational standards shall obtain a minor use permit from the Planning Department and an encroachment permit from the City Engineer.
- (3) ~~Establishment of an outdoor dining area shall require site plan review and permit issuance.~~ Any person or business wishing to operate an outdoor dining area shall apply for a permit by submitting the following to the City:
- a. The site floorplan for the proposed outdoor dining area shall include the following:
1. Chairs, tables, umbrellas, planters, signs and any other fixtures and furnishings to be included in the outdoor dining operation.
 2. The applicants primary eating establishment or food court and the proposed circulation to and from the outdoor dining area, as well as pedestrian circulation at the perimeter of the outdoor dining area.
 3. The public sidewalk or public right-of-way to be occupied with dimensions of the entire sidewalk or right-of-way and the clearance proposed for pedestrian access.

4. ~~Names of and m~~ Main entrances to the businesses immediately adjacent to the applicant's eating establishment.
- b. Specifications and photographs of all proposed chairs, tables, umbrellas, signs, railings railing connections to the public sidewalk or right-of-way and the adjacent building, or other furnishing.

(4) *Design standards for outdoor dining area.*

- a. The outdoor dining area shall be designed to facilitate sit-down dining activity through the utilization of chairs and tables. It shall also be compact and shall be clearly delineated to promote a visual relationship between the dining area and the surrounding pedestrian areas.
 1. Minor outdoor dining areas shall not project further than four feet from the building façade.
- b. Sidewalk clearance. Outdoor dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usually pedestrian traffic in the area and the operation of the proposed activity. A clear, continuous pedestrian path not less than five (5) feet in width shall be required for unimpeded pedestrian circulation outside of the outdoor dining area. The minimum width of said pedestrian path may be increased by the City Engineer in areas requiring public utility access. Pedestrian path means a continuous, obstruction-free sidewalk area between the outside boundary of the dining area and any obstruction including, but not limited to, parking meters, street trees, landscaping, streetlights, bus benches, public art, and curb lines.
- c. Restaurant entry clearance. No outdoor dining area shall be located to block access either to or from a building. A minimum unobstructed clearance which extends two feet to either side of both door jambs shall be maintained.
- d. Corner locations. Where an outdoor dining area is located on a corner, the outdoor dining area shall not be permitted within three feet of the corner of the building, along both frontages. Where an outdoor dining area is located adjacent to a driveway or an alley, the outdoor dining area shall not be permitted within five feet of the driveway or alley. These requirements may be modified at the discretion of the City Engineer or Director of Planning in locations where the sidewalk adjacent to the proposed outdoor dining area is wider than usual, where the perimeter of the building has an unusual configuration, or where public safety is at risk.
- e. Floor level. The floor of the outdoor dining area shall be at the same level as the sidewalk, and no alterations to the sidewalk or coverings on the sidewalk shall be permitted, unless expressly approved by the City Engineer.

- f. ~~The permittee shall not expand its outdoor dining area onto the sidewalk frontage of an adjacent business.~~ Music Restricted. Musical instruments or sound reproduction systems are not permitted in outdoor dining areas.
- g. Adjacent business restriction. An outdoor dining area may be located directly adjacent to another outdoor dining area. No separation between outdoor dining areas shall apply. No permittee shall expand their outdoor dining area onto the sidewalk frontage of an adjacent business.
- h. Parking area restriction. In no case shall an outdoor dining area be located directly to parking, unless separated by a landscape barrier at least four feet deep and three feet high.
- i. The design and appearance of all proposed improvements or furniture, including, but not limited to, tables, chairs, benches, umbrellas, and planters, to be placed in the sidewalk dining area shall present a coordinated and concerted theme and shall be compatible with the appearance and design of the principal building.
- j. A perimeter barrier shall be provided for the outdoor dining area. However, no barrier shall be required if the applicant proposes to limit the outdoor dining area to one row of tables and chairs abutting the wall of the establishment and if no alcohol will be served outside.
- k. All barriers shall complement the building façade as well as any street furniture and shall be between 24 inches and 36 inches in height.
- l. Barriers shall be removable. Barriers need not be removed each evening or night, but shall be capable of being removed, if needed, using recessed sleeves and posts, or by wheels that can be locked into place.
- m. Barriers shall be able to withstand inclement weather and 100 pounds of horizontal force at the top of the barriers when in their fixed positions.
- n. Objects placed on the sidewalk shall not interfere with or obstruct line-of-sight and shall maintain a clear sight triangle.
- o. Any umbrellas, heater, or similar feature used in an outdoor dining area shall be safely secured. All heaters shall be in compliance with applicable fire code.
- p. Outdoor lighting fixtures shall complement the style of the site. Lighting fixtures shall not create glare to pedestrians on the adjacent right-of-way and shall illuminate only the outdoor dining area. Outdoor lighting may be installed on the façade of the building or in the dining area in front of the façade.
- q. Signage advertising alcohol products on umbrellas shall be prohibited.

(5) *Parking.* Space used for outdoor dining in the public right-of-way shall not be added to the gross square footage of the food service establishment when calculating parking requirements.

(6) *Standards of operation.*

- a. The management of the eating establishment shall be responsible for operating the outdoor dining area and shall not delegate or assign the responsibility.
- b. Hours of operation for the outdoor dining areas are to coincide with those of the associated indoor restaurant. When the establishment ceases serving food for the day, further seating in the outdoor dining area shall be prohibited and the outdoor dining area shall close when the patrons already seated in it leave.
- c. The operator shall not permit the following outside of the building: food preparation, utensils, glasses, napkins, and condiments on unoccupied tables, busing service stations, or trash and garbage storage. All exterior surfaces within the outdoor dining area shall be easily cleaned and shall be kept clean at all times by the permittee.
- d. The permittee shall maintain the outdoor dining area and the adjoining street, curb, gutter, and sidewalk in a neat, clean, and orderly condition at all times. This shall include all tables, chairs, benches, displays, or other appurtenances placed in the public right-of-way. Provisions shall be made for trash receptacles to service the sidewalk dining area. The operator shall remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street.
- e. Awnings and umbrellas shall be kept clean and in good condition at all times. Umbrellas shall not advertise alcohol products.
- f. Musical instruments or sound reproduction systems are permitted in outdoor dining areas but shall be maintained at sufficiently low volumes so as not to adversely affect the neighboring businesses, residents, or users of the public right-of-way beyond the outdoor dining area, or in violation of the City of Fontana Noise Ordinance.
- g. Fixtures and equipment approved by the City pursuant to an outdoor dining area permit may remain in and on the sidewalk during such time that an outdoor dining permit is in effect.
- h. Upon revocation or termination of an outdoor dining permit, all fixtures and equipment shall immediately be removed from the sidewalk, and the sidewalk returned to its original condition.

i. ~~No bar serving alcohol shall be allowed in the outside dining area.~~ Alcohol service.

1. Minor outdoor dining. No alcohol shall be allowed in the outdoor dining area.

2. Major outdoor dining. Alcohol may be served in the outdoor dining area provided the area is enclosed and meets all other standards of the California Alcohol Beverage Control.

(7) *Special closures.* The City of Fontana shall have the right and power, acting through the City Manager or his/her designee, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems or conflicts in the use of the sidewalk or right-of-way area. Such problems or conflicts may arise from, but are not limited, festivals, parades, marches and similar events, repairs and widening of the streets or sidewalks, or emergencies occurring in the area. To the extent possible, the permittee shall be given prior notice of any time period during which the operation of the outdoor dining area or the outdoor dining area shall be prohibited by the City.

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Remainder of section to remain unchanged.

Sec. 30-371.2. Sierra core.

The Sierra core is the commercial core of Fontana and functions as the city center. Uses include a mixture of commercial, retail, entertainment, office, and residential.

Building placement shall be close to the streets and integrated within the pedestrian realm. Architectural features should provide shade and variation in building design.

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Parking

	Required Spaces
Residential	1.25 per unit
Nonresidential Uses Under 6,000 Square Feet	No parking required
Nonresidential Uses Over 6,000 Square Feet	50% of the requirements in the Zoning Code (30-685.A)
Retail, Entertainment and Restaurant Uses Over 6,000 Square Feet Within 400 Feet of City-Owned Public Parking Lot or Structure	No parking required

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All other portions of the section to remain unchanged.

Sec. 30-390. Off-street parking and loading standards.

(a) *Off-street parking standards.*

- (1) Off-street parking requirements shall be set forth in Division ~~5~~ 4, which outlines the development standards by zoning district.
- (2) Off-street parking dimensions shall be as set forth in Table 30-390.A.—Off-Street Parking Dimensions below. Any type of stall not listed shall refer to Section 30-606 of the Zoning and Development Code.

Table 30-390.A.—Off-Street Parking Dimensions

Type of Stall	Minimum Size (feet)
Standard	9 x 18
Garage/Carport	10 x 20
Parallel	8 x 21
Compact	8 x 16
Tandem	9 x 35
30°	9 x 17
45°	9 x 18
60°	9 x 21

The remainder of the section to remain unchanged.

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, t~~The Agreement memorandum shall include the following:
 - ~~(1) — T~~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.