

RESOLUTION PC NO. 2025 - _____

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. 26-58 PERTAINING TO APPROVING BODIES FOR TENTATIVE PARCEL MAPS AND TENTATIVE TRACT MAPS; SEC. 30-12 PERTAINING TO THE DEFINITION OF RESTAURANT; SEC. 30-100 PERTAINING TO PROJECTS SUBJECT TO ADMINISTRATIVE SITE PLAN AMENDMENTS; SEC. 30-110 PERTAINING TO PROJECTS SUBJECT TO ADMINISTRATIVE SITE PLAN MODIFICATIONS; SEC. 30-125 TO REMOVE REQUIREMENTS FOR A DESIGN REVIEW AMENDMENT; SEC. 30-128 PERTAINING TO PROJECTS SUBJECT TO DESIGN REVIEW AMENDMENTS; SEC. 30-139 PERTAINING TO PROJECTS SUBJECT TO DESIGN REVIEW MODIFICATIONS; SEC. 30-256 PERTAINING TO TEMPORARY USE PERMITS FOR TEMPORARY COMMERCIAL BUILDINGS; SEC. 30-310 PERTAINING TO TIME EXTENSION APPROVALS FOR TENTATIVE TRACT MAPS; TABLE 30-359.A. TO REVISE LAND USES RELATED TO RESTAURANTS AND ALCOHOL SALES; SEC. 30-360 PERTAINING TO OPERATIONAL STANDARDS FOR RESTAURANTS SERVING ALCOHOL; SEC. 30-447 PERTAINING TO THE NUMBER OF BEDROOMS IN DWELLINGS IN THE R-4 ZONING DISTRICT; SEC. 30-448 PERTAINING TO BUILDING SEPARATION REQUIREMENT FOR PROJECTS IN THE R-4 OVERLAY DISTRICT; SEC. 30-491 PERTAINING TO OPERATIONAL STANDARDS FOR RESTAURANTS SERVING ALCOHOL; SEC. 33-30 TO EXPLICITLY ALLOW CURBSIDE DELIVERY FOR CANNABIS STOREFRONT RETAIL BUSINESSES, 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. 25-0008, 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 26-58. Expiration of approval. is amended to authorize the original approving body for tentative parcel maps and tentative tract maps to approve time extensions; and

WHEREAS, Section 30-12. – List of definitions. is amended to clarify the definition of a restaurant; and

WHEREAS, Section 30-100. – Reserved. is amended to include projects subject to an administrative site plan amendment; and

WHEREAS, Section 30-110. – Reserved. is amended to include projects subject to an administrative site plan modification; and

WHEREAS, Section 30-125. – Purpose. is amended remove requirements for a design review amendment; and

WHEREAS, Section 30-128. – Reserved. is amended to include projects subject to a design review amendment; and

WHEREAS, Section 30-139. – Reserved. is amended to include projects subject to a design review modification; and

WHEREAS, Section 30-256. – Types of temporary use applications and conditions. is amended to allow temporary commercial buildings on the site of an existing commercial business during reconstruction or remodeling; and

WHEREAS, Section 30-310. – Authority is amended to authorize the Director of Planning to approve time extensions for tentative tract maps; and

WHEREAS, Table 30-359.A. – Land Uses. is amended to revise land uses related to restaurants and alcohol sales; and

WHEREAS, Section 30-360. – Special use regulation. is amended to include operational standards for restaurants serving alcohol; and

WHEREAS, Section 30-447. – Residential development standards. is amended to remove the limitation on the number of bedrooms per residential unit in the R-4 zoning district; and

WHEREAS, Section 30-448. – Multiple-family building separation requirement. is amended to include a provision for building separation from the R-1 zoning district for development in the R-4 Overlay district; and

WHEREAS, Section 30-491. – Special use regulations*. is amended to include operational standards for restaurants serving alcohol; and

WHEREAS, Section 33.30. – Additional operational regulations for storefront retail. is amended to explicitly allow curbside delivery on the site of cannabis storefront retail and to provide operational standards for such activity; and

WHEREAS, the Fontana Planning Commission (“Planning Commission”) recommends that the Fontana City Council (“City Council”) determine that the amendments qualify for a categorical exemption pursuant to the California Environmental Quality Act (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 August 19, 2025, 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 August 19, 2025; and

WHEREAS, the amendments are consistent and compatible 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 that 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 qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) 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; therefore, a Notice of Exemption has been prepared.

Section 3. Municipal Code Amendment. The Planning Commission hereby makes the following finding for MCA No. 25-0008 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 and 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. 25-0008 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 19th day of August 2025.

City of Fontana

Idilio Sanchez, Chairperson

ATTEST:

I, Joseph Armendarez, 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 19th day of August 2025, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Joseph Armendarez, Secretary

“EXHIBIT A”

AMENDMENT TO FONTANA MUNICIPAL CODE CHAPTER 30

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

Chapter 26 – SUBDIVISIONS

DIVISION 2. – TENTATIVE TRACT MAP REQUIREMENTS

Sec. 26-58. Expiration of approval.

- (a) An approved tentative tract map shall expire 24 months after its approval, unless this time period is otherwise extended pursuant to this section or pursuant to any provision of the Subdivision Map Act as enacted or subsequently amended, but in no event shall an approved tentative tract map be valid beyond 15 years from the date it was first approved.
- (b) In addition to the time period set forth in subsection (a) of this section and upon application of the subdivider filed prior to expiration of the approved tentative tract map, an additional period of time, not to exceed five years, may be granted by the ~~planning commission~~ Director of Planning. When an application is filed pursuant to this subsection, the map shall automatically be extended for 60 days or until the ~~planning commission~~ Director of Planning approves, conditionally approves, or denies the application for the extension.
- (c) The period of time specified in subsections (a) and (b) of this section shall not include any period of time during which a development moratorium, imposed after approval of the tentative tract map, is in existence; provided, however, that the length of the moratorium does not exceed five years. Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time the moratorium was imposed. However, if the remaining time is less than 120 calendar days, the map shall be valid for 120 calendar days following the termination of the moratorium. For purposes of this section, a development moratorium shall include a water or sewer moratorium, as well as other actions of public agencies which regulate land use, development or the provision of services to the land, including those of school and fire districts.
- (d) The period of time specified in subsections (a) and (b) of this section shall not include any period of time during which a lawsuit involving the approval of the tentative tract map is or was pending in a court of competent jurisdiction if, upon application of the subdivider and upon conclusive proof of the existence of such lawsuit, the planning commission agrees, in accordance with California Government Code § 66452.6(c), to stay such time period. Within 40 days after receiving the application, the city shall either stay the time period for up to five years or deny the requested stay. The planning commission shall determine whether the conditions of approval imposed at the time the tentative tract map

was first approved are sufficient to protect the health, safety and welfare of the general public. The planning commission has the right to amend, modify or delete such conditions of approval as a condition of the requested stay.

- (e) If the subdivider is required to expend \$125,000.00 or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, upon the filing of a final map, the expiration of the tentative tract map shall be extended by 36 months from the date of its expiration or the date of the previously filed final map, whichever is later. This subsection shall apply only to situations wherein multiple final maps are filed with the city. The extension provided in this subsection shall not extend the tentative map more than ten years from its date of approval. Nothing in this subsection limits the authority of the planning commission to impose reasonable conditions to the filing of multiple final maps.
- (f) In addition to any other extension of time provided by this section or provided by the Subdivision Map Act, the expiration date of any tentative tract map that did not expire before September 13, 1993, shall be extended by 24 months.
- (g) In addition to any other extension of time provided by this section or provided by the Subdivision Map Act the expiration date of any tentative tract map that did not expire before May 15, 1996, shall be extended by 12 months.
- (h) In addition to any other extension of time provided by this section or provided by the Subdivision Map Act any tentative tract map that would have expired on or after March 3, 2020 and before December 31, 2020, shall be extended by 12 months.
- (i) Subject to the 15 year time limit set forth in subsection (a) of this section, a tentative tract map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 of the California Government Code may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. Such extension occurs upon the filing of each final map authorized by Government Code § 66456.1.

Sec. 30-12. – List of definitions.

...

Restaurant means an establishment where food ~~and drink~~ is freshly prepared, cooked, and served to order and consumed primarily within the main building, ~~and building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designated to take place outside the confines of the building, often in a motor vehicle. and where at least 65 percent of the quarterly gross receipts are from the sale of food products/meals that include freshly prepared food items available for consumption on the premises during all hours the establishment is open for business. Restaurants maintain suitable kitchen facilities for cooking and/or preparing an assortment of foods for meals along with the proper amount of refrigeration and/or heating for keeping of food. The service of pre-packaged items (e.g. sandwiches, salads, etc.) does not qualify within the definition of a restaurant. Restaurants do not include any live entertainment, disc jockey, amplified music, karaoke, electronic arcade, amusement games, pool tables, dart boards, dancing, dance floor, or dance area provided on the premises.~~

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Subdivision III. – Administrative Site Plan – Amendment

Sec. 30-100. ~~Reserved~~ Projects subject to administrative site plan - amendment.

Editor's note(s) — Ord. No. 1906, § 28, adopted Oct. 25, 2022, repealed § 30-100, which pertained to Development Advisory Board (DAB) review and derived from Prior Code.

(a) Applications for amendments to administrative site plans are required for commercial, industrial, and institutional projects with a previously approved administrative site plan entitlement that has not yet expired, is not under construction or developed, and which may or may not involve the issuance of a building permit for construction, including:

- (1) Major façade changes that include significant structural changes, such as changes to the location of windows and doors, roof pitch or structure, building materials, etc.
- (2) Major site plan changes, such as relocation of buildings, but not including the relocation or modifications to parking spaces where such relocation or modification reduces the number of parking spaces below the required number of parking spaces.
- (3) The addition of square footage to a previously-approved building totaling less than 1% of the total building area.

- (b) Amendments to an approved administrative site plan shall be approved by the Director of Planning or his/her designee. Upon the submittal of an application, the Director of Planning shall have the discretion to determine if the proposed amendment will be referred to the approving body for approval or approved administratively. The following parameters shall be used to guide the Director of Planning's decision:
- (1) Changes to conditions of approval, increases in the square footage, and significant changes to either the site plan (such as changing the size, shape, or position of a building on a project site) or architectural elevations (such as changes in building height or massing, altering the exterior building materials, adding or deleting elements such as balconies, dormers, porches, etc.) shall be referred to the approving body for review and approval of an administrative site plan amendment.
 - (2) Changes to the following may be reviewed and approved administratively by the Director of Planning:
 - a. Architectural features that are not significant in nature (i.e. window treatments, shifting of windows or minor changes in window size, decorative trim, or numbers, the shifting of parking spaces on site that do not reduce the number of required parking spaces below the minimum required by the Article XI or the applicable specific plan, etc.)
 - b. Site improvements that enhance the site regarding the aesthetics, public safety and/or security.
 - c. Project features not visible from the public right-of-way and that do not result in a material change to the project's operational characteristics, scale intensity or fundamental design intent as originally approved.
 - (3) Within five years of the original administrative site plan application, color combinations and color schemes for commercial and industrial buildings shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes, regardless of the date of the original application and modifications of color combinations and color schemes for administrative site plan applications which are five years or older from the date of approval may be approved by the Director of Planning administratively. The Director of Planning may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

Subdivision IV. – Administrative Site Plan Modification

Sec. 30-110. Reserved. Projects subject to administrative site plan – modification.

Editor's note(s) — Ord. No. 1906, § 31, adopted Oct. 25, 2022, repealed § 30-110, which pertained to Development Advisory Board (DAB) review and derived from Prior Code.

- (a) Applications for administrative site plan – modification are required for commercial, industrial, and institutional projects with a previously approved administrative site plan entitlement that has not yet expired, is currently under construction or developed, and which may or may not involve the issuance of a building permit for construction, including:
 - (1) Major façade changes that include significant structural changes, such as the changes to the location of windows and doors, roof pitch or structure, building materials, etc.
 - (2) Major site plan changes, such as relocation of buildings, but not including the relocation or modifications to parking spaces where such relocation or modification reduces the number of parking spaces below the required number of parking spaces.
 - (3) The addition of square footage to a previously approved building totaling less than 1% of the total building area.
- (b) Modifications to an administrative site plan shall be approved by the Director of Planning or his/her designee. Upon written request from an applicant, the Director of Planning shall have the discretion to determine if the proposed modification will be referred to the approving body for approval or approved administratively. The following parameters shall be used to guide the Director of Planning's decision:
 - (1) Changes to conditions of approval, increases in the square footage, and significant changes to either the site plan (such as changing the size, shape, or position of a building on a project site) or architectural elevations (such as changes in building height or massing, altering the exterior building materials, or adding or deleting elements like balconies, dormers, porches, etc.) shall be referred to the approving body for review and approval of an administrative site plan modification.
 - (2) Changes to the following may be reviewed and approved administratively by the Director of Planning:
 - a. Architectural features that are not significant in nature (i.e. window treatments, shifting of windows or minor changes in window size, decorative trim, or numbers, the shifting of parking spaces on site that do not reduce the number of required parking spaces below the

minimum required by the Article XI or the applicable specific plan, etc.)

- b. Site improvements that enhance the site regarding the aesthetics, public safety and/or security.
- c. Project features not visible from the public right-of-way and that do not result in a material change to the project's operational characteristics, scale intensity or fundamental design intent as originally approved.

(3) Within five years of the original administrative site plan application, color combinations and color schemes for commercial and industrial buildings shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes, regardless of the date of the original application and modifications of color combinations and color schemes for administrative site plan applications which are five years or older from the date of approval may be approved by the Director of Planning. The Director of Planning may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

Subdivision II. – Design Review - Amendment

Sec. 30-125. Purpose.

- (a) The purpose and intent of the design review, amendment process is to assure that projects comply with all applicable City standards and ordinances, and are not detrimental to the public health, safety, or welfare, or are materially injurious to properties or improvements in the immediate vicinity. Projects eligible for an amendment are for any non-expired approved entitlements for design review on undeveloped sites pursuant to the amendment procedures herein.
- ~~(b) Amendments to an approved design or administrative site plan review shall be approved by the approving body or the Director of Community Development or his/her designee. Upon written request from an applicant, the Director of Community Development shall have the discretion to determine if the proposed amendment will be referred to the approving body for approval or approved administratively. Administratively approved amendments to a design review originally approved by the Planning Commission shall be placed on the Planning Commission agenda under the Manager of Planning report for informational purposes. The following parameters shall be used to guide the Director of Planning's decision:~~

- ~~(1) Changes to conditions of approval, increases in the square footage, and significant changes to either the site plan or architectural elevations shall be referred to the approving body for review and approval~~
- ~~(2) Changes to architectural features that are not significant in nature such as window treatments, shifting of windows or minor change in window size or decorative trim, the shifting of parking spaces on site that do not reduce the number of required parking spaces or site improvements that enhance the site in regard to the aesthetics, public safety and/or security can be reviewed and approved administratively.~~
- ~~(3) Within five years of the original design review or administrative site plan application, color combinations and color schemes for commercial and industrial buildings shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes, regardless of the date of the original application and modifications of color combinations and color schemes for design reviews and administrative site plan applications which are five years or older from the date of approval may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application. Appeals shall follow provisions of Section 30-33.~~

Sec. 30-128. Reserved Projects subject to design review - amendment.

~~Editor's note(s) — Ord. No. 1906, § 35, adopted Oct. 25, 2022, repealed § 30-128, which pertained to Development Advisory Board (DAB) review and derived from Prior Code.~~

- ~~(a) Applications for design review – amendment are required for projects with a previously approved design review entitlement that has not yet expired, is not under construction or developed, and which may or may not involve the issuance of a building permit for construction, including:~~
 - ~~(1) Major façade changes that include significant structural changes, such as the changes to the location of windows and doors, roof pitch or structure, building materials, etc.~~
 - ~~(2) Major site plan changes, such as relocation of buildings, but not including the relocation of or modifications to parking spaces where such relocation or modification reduces the number of parking spaces below the required number of parking spaces.~~
 - ~~(3) The addition of square footage to a previously-approved building totaling less than 1% of the total building area.~~

(b) Amendments to an approved design review shall be approved by the Director of Planning or his/her designee. Upon written request from an applicant, the Director of Planning shall have the discretion to determine if the proposed amendment will be referred to the approving body for approval or approved administratively. Administratively approved amendments to a design review originally approved by the Planning Commission shall be placed on the Planning Commission agenda under the Director of Planning report for informational purposes. The following parameters shall be used to guide the Director of Planning's decision:

(1) Changes to conditions of approval, increases in the square footage, and significant changes to either the site plan or architectural elevations shall be referred to the approving body for review and approval of a design review.

(2) Changes to the following may be reviewed and approved administratively by the Director of Planning:

a. Architectural features that are not significant in nature (i.e. window treatments, shifting of windows or minor changes in window size, decorative trim, or numbers, the shifting of parking spaces on site that do not reduce the number of required parking spaces below the minimum required by the Article XI or the applicable specific plan, etc.)

b. Site improvements that enhance the site regarding the aesthetics, public safety and/or security.

c. Project features not visible from the public right-of-way and that do not result in a material change to the project's operational characteristics, scale intensity or fundamental design intent as originally approved.

(3) Within five years of the original design review or administrative site plan application, color combinations and color schemes for commercial and industrial buildings shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes, regardless of the date of the original application and modifications of color combinations and color schemes for design reviews and administrative site plan applications which are five years or older from the date of approval may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application. Appeals shall follow provisions of Section 30-132.

Subdivision III. – Design Review Modification

Sec. 30-139. Reserved Projects subject to design review - modification.

~~Editor's note(s) — Ord. No. 1906, § 37, adopted Oct. 25, 2022, repealed § 30-139, which pertained to Development Advisory Board (DAB) review and derived from Prior Code.~~

- (a) Applications for design review – modification are required for projects with a previously approved design review entitlement that has not yet expired, is under construction or already developed, and which may or may not involve the issuance of a building permit for construction, including:
 - (1) Major façade changes that include significant structural changes, such as the changes to the location of windows and doors, roof pitch or structure, building materials, etc.
 - (2) Major site plan changes, such as relocation of buildings, but not including the relocation or modifications to parking spaces where such relocation or modification reduces the number of parking spaces below the required number of parking spaces.
 - (3) The addition of square footage to a previously-approved building totaling less than 1% of the total building area.
- (b) Modifications to an approved design review shall be approved by the approving body or the Director of Planning or his/her designee. Upon written request from an applicant, the Director of Planning shall have the discretion to determine if the proposed amendment will be referred to the approving body for approval or approved administratively. Administratively approved modifications to a design review originally approved by the Planning Commission shall be placed on the Planning Commission agenda under the Director of Planning report for informational purposes. The following parameters shall be used to guide the Director of Planning's decision:
 - (1) Changes to conditions of approval, increases in the square footage, and significant changes to either the site plan or architectural elevations shall be referred to the approving body for review and approval.
 - (2) Changes to the following may be reviewed and approved administratively by the Director of Planning:
 - a. Architectural features that are not significant in nature (i.e. window treatments, shifting of windows or minor changes in window size, decorative trim, or numbers, the shifting of parking spaces on site that do not reduce the number of required parking spaces below the

minimum required by the Article XI or the applicable specific plan, etc.)

- b. Minor site improvements that enhance the site regarding the aesthetics, public safety and/or security.
- c. Project features not visible from the public right-of-way and that do not result in a material change to the project's operational characteristics, scale intensity or fundamental design intent as originally approved.

- (3) Within five years of the original design review application, color combinations and color schemes for commercial and industrial buildings shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes, regardless of the date of the original application and modifications of color combinations and color schemes for design reviews applications which are five years or older from the date of approval may be approved by the Director of Planning. The Director of Planning may refer minor hue color changes to the original approving body for consideration under a revision to the original application. Appeals shall follow provisions of Section 30-33.

DIVISION 18. – TEMPORARY USE

Sec. 30-256. - Types of temporary use applications and conditions.

A temporary use permit shall be required for the following activities and shall be subject to conditions established herein and any other additional conditions as may be prescribed by the Director of Planning. All such uses shall be subject to the sign regulations within Chapter 3 and zoning regulations within Chapter 30 of the Municipal Code.

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- (12) Temporary commercial buildings on active construction sites in the case of the reconstruction or remodeling of an existing commercial business. The following restrictions shall apply:

- a. The Director of Planning may approve a temporary commercial building for the duration of the reconstruction or remodeling project or for up to a maximum period of one year. If the Director of Planning determines that extenuating circumstances have occurred during construction, a one-year extension may be granted.
- b. A maximum of one temporary commercial building may be approved to operate a maximum of one business on the site. The business must be appropriately

licensed, operating in compliance with all City rules, regulations, and codes, and must have been in operation prior to the start of construction.

- c. Installation of the temporary building may occur only after a valid building permit has been issued by the Building and Safety Department.
- d. The temporary building installation must meet all requirements and regulations of the County Department of Environmental Health Services and all applicable City departments and other regulating agencies.
- e. Temporary buildings installed under the provisions of this section shall be removed from the site within fourteen calendar days of the completion of, and issuance of the Certificate of Occupancy for, the commercial building on the site.
- f. The temporary building shall not be installed on required vehicle parking and loading spaces as determined by Article XI. – On-Site Parking and Loading Regulations. Vehicle parking spaces provided on the subject site in excess of the requirements of Article XI may be considered for the installation of the temporary building.
- g. The temporary building shall not obstruct access and/or drive aisles on the subject site.
- h. Signage for the business on the site shall be reviewed and approved through the Temporary Use Permit and/or Design Review Sign process.

~~(42 13)~~ Other uses and activities that may be needed on a temporary basis or similar to subsections (1) through ~~(40 9)~~ above as deemed appropriate by the Director of Planning.

DIVISION 22. – TIME EXTENSION, MAPPING AND PROJECT

Subdivision II. – Time Extension – Tentative Tract Maps

Sec. 30-310. - Authority.

The ~~Planning Commission~~ Director of Planning is authorized to approve or deny applications for time extension for tentative tract maps and to impose conditions upon such approval.

ARTICLE III – FORM BASED CODE

Division 3. – Permitted Land Uses

Table 30-359.A. – Land Uses

[illegible]

ARTICLE III – FORM BASED CODE

DIVISION 3. – PERMITTED LAND USES

Sec. 30-360. Special use regulation.

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(i) Alcohol sales for on-site consumption, in connection with a restaurant/food hall.

(1) A restaurant selling alcohol for on-site consumption shall not negatively impact adjoining uses as it relates to noise in excess of the maximum noise measurements established in the Fontana Municipal Code, debris generated by the restaurant or its' patrons not disposed of in appropriate receptacles, traffic impacting use of the public right-of-way, storage outside of an enclosed building, and hours of operation, nor shall it create any adverse effect on public health, safety or welfare.

(2) The establishment shall be operated in such a manner that sound emitted from the premises shall not be audible beyond the boundaries on which it is located:

a. All doors to the building shall remain closed except to allow for the entrance and exit of patrons and employees.

b. Any such alcohol sales use being established for the first time shall have no entrance or exit located within 100 feet of a residentially zoned or utilized property unless adequate sound attenuation measures have been undertaken to ensure sound measurements do not exceed the maximum measurements established in the Fontana Municipal Code or unless the entrance or exit is separated from the residentially zoned property by a public street.

c. A restaurant selling alcohol for on-site consumption should be a minimum of 600 feet away from an existing or proposed school, park, religious institution, hospital, youth facility or other similar uses.

ARTICLE V. – RESIDENTIAL ZONING DISTRICTS

DIVISION 4. DEVELOPMENT STANDARDS FOR PRIMARY DWELLINGS.

Sec. 30-447. Residential development standards.

The following development standards apply to multi-family residential development projects without a commercial component, which are proposed at minimum density of

24.1 to 39 dwelling units per acre within the multiple-family medium/high density residential (R-4) zoning district, and 39.1 to 50 dwelling units per acre in the multiple-family high density residential (R-5) zoning district.

Table	No.	30-447
Residential Development Standards		
Maximum Density	R-4	R-5
Maximum permitted number of dwelling units per adjusted gross acre	24.1.0— 39.0	39.1— 50.0
Lot Dimensions for New Lots, Lot Size, and Lot Coverage	R-4	R-5
Minimum width at front P/L	200'	200'
Minimum depth	300'	300'
Minimum lot size (sq. ft.)	2 acres	2 acres
Maximum lot coverage (adjusted gross acreage of total site)	70%	70%
Multiple-Family Minimum Dwelling Size (Standard/Market Rate, Senior and Affordable)	R-4	R-5
Minimum dwelling unit in square feet	550 sq. ft.	550 sq. ft.
Maximum dwelling unit in square feet	1,800 sq. ft.	1,800 sq. ft.
Building Height	R-4	R-5
Multi-Family	55'	55'
Multi-Family Open Space Requirements	R-4	R-5
Open space, private ground/upper floor (sq. ft.), minimum	120/80	120/80
Open space, common, as a percentage of adjusted gross acreage of project area, minimum	30%	30%
Open space, useable, (combined total of private and common open space), as a percentage of adjusted gross acreage of project area, minimum	35%	35%

Notes:

- (1) For existing legal lots smaller than this minimum, see Section 30-414 (lot size conformance).
- (2) For the purpose of this section, subterranean or partial subterranean parking shall not be considered a floor/story for the purpose of determining building setbacks.
- (3) For parcels located in the R-4 district, the number of bedrooms shall be limited to a maximum of two bedrooms per dwelling unit.

Sec. 30-448. Multiple-family building separation requirement.

Table No. 30-448		
Building Setback and Separation (in feet)		
Front Setback, Building to Public Right-of-Way (streets)	R-4	R-5
Major or primary	5-foot	5-foot
Secondary or collector	5-foot	5-foot
Local	0-foot	0-foot

Corner Lot, Side Building Setback to P/L	R-4	R-5
Major or primary	5-foot	5-foot
Secondary or collector	5-foot	5-foot
Local	5-foot	5-foot
Corner Lot, Side Parking Setbacks to P/L	R-4	R-5
Major or primary	10-foot	10-foot
Secondary or collector	10-foot	10-foot
Local	10-foot	10-foot
Side Setback (interior), Building, Setback to Adjacent Zoning Districts	R-4	R-5
R-1	25-foot	25-foot
R-2 (Single-family use)	25-foot	25-foot
R-2 (Multi-family use)	15-foot	15-foot
R-3	10-foot	15-foot
R-4	0-foot	0-foot
R-5	0-foot	0-foot
R-PC, Single-family	75-foot	75-foot
R-PC, Specific plan (b) (single-family/multi-family)	25-foot/ 15-foot	25-foot/ 15-foot
R-E	75-foot	75-foot
P-PF	30-foot	30-foot
C-2	0-foot	0-foot
All other zoning districts, (C-1, RMU, and OS)	20-foot	20-foot
Parking Area and Drive Aisle Setbacks to Adjacent Zoning Districts	R-4	R-5
All residential	5-foot	5-foot
All other	5-foot	5-foot
Onsite Building to Building Setbacks	R-4	R-5
Front to front	30-foot	30-foot
Front to side	30-foot	30-foot
Front to rear	30-foot	30-foot
Rear to side	25-foot	25-foot
Rear to rear	20-foot	20-foot
Side to side	15-foot	15-foot
Oblique alignment		
Accessory Structure Setbacks and Separation (in feet)	R-4	R-5
In all cases	See Section No.30-461	

Notes:

- (1) Building shall mean a structure containing dwelling units. For purpose of this table, building setback standards shall be for any building exceeding a single-story. Setback standards may be modified by other lettered notes herein.

- (2) Subtract ten feet for a single-story dwelling unit or a multi-story dwelling unit having a single-story element with a depth of at least ten feet.
- (3) All primary ground-floor common entries and individual dwelling unit entries fronting Foothill Blvd, Orange Way, Cypress Avenue or Valencia Avenue shall be oriented to the street, not the interior of the development or parking lot.
- (4) On a case by case basis, the Community Development Director may require up to ten feet of additional building setback from all property lines to accommodate entrance stops, porches, patios and other architecture features, as well as landscaping areas.
- (5) For the purpose of this table, accessory structure means a subordinate structure which is incidental to and is detached from the main building but is on the same lot and supports the primary use on-site. If an accessory structure is attached to the building by way of a continuation of the building roof, the accessory structure shall be considered an addition to the building.
- (6) "Front" is defined as that face of the building or unit with a major glass area and/or major private recreation area and may include access to that private recreation area. This access may or may not relate to the primary entrance to the building that faces the public right-of-way or private drive aisle; therefore, some buildings may have more than one "front" under this definition.
- (7) For the purpose of this table, zoning districts are not considered adjacent if separated by a dedicated public right-of-way or utility easement of more than 50 feet in width.
- (8) Setback measured from building to property line.
- (9) "Oblique alignment" is defined as the intersection of the parallel face of one building by the corner angle of a second building where said angle is greater than 25 percent. The corner angle of the intersecting building may encroach into the setback of the other building by up to five feet provided there is an equal or greater setback at the other end of the intersecting building. Such encroachment shall also be averaged so that for each building that is allowed to encroach into the setback, another building will offset such encroachment by an equal number of feet. (Where two buildings meet at corner angles, the side-to-front setback criteria shall be used.)
- (10) Balconies, patios (uncovered and covered), patio fences/walls, porches, and similar like structures (as determined by the Director of Community Development) may project into the setback area up to a maximum of six feet, providing, however, that such structures shall never be separated by less than 15 feet (horizontal).
- (11) The "rear" of a building is defined as the point or area farthest from the front. Where a building is identified to have two fronts the building may be considered not to have a rear facing.
- (12) Setback from underdeveloped property in the R-2 zone shall be determined at the R-1 single-family zones development standard of 25 feet.
- (13) Where a new building is to be constructed on a corner lot or intersection, a wraparound building design with an angled corner shall be utilized in order to maximize and encourage pedestrian activity.

(14) Parking setback may be decreased to zero for subterranean parking structures.

(15) The minimum building setback to the R-1 zoning district may be reduced to 10 feet for development within the R-4 overlay for projects developed consistent with the density requirements of the R-4 overlay and where the adjacent parcel is vacant and undeveloped.

ARTICLE VI. – COMMERCIAL AND MIXED USE ZONING DISTRICT

DIVISION 3. – USE REGULATIONS

Sec. 30-491. – Special use regulations*.

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(22) Restaurant, With the Sale of Alcohol.

- (1) A restaurant selling alcohol for on-site consumption shall not negatively impact adjoining uses as it relates to noise in excess of the maximum noise measurements established in the Fontana Municipal Code, debris generated by the restaurant or its' patrons not disposed of in appropriate receptacles, traffic impacting use of the public right-of-way, storage outside of an enclosed building, debris, traffic, storage, design and hours of operation, nor shall it create any adverse effect on public health, safety or welfare.
- (2) The establishment shall be operated in such a manner that sound emitted from the premises shall not be audible beyond the boundaries on which it is located:
 - a. All doors to the building shall remain closed except to allow for the entrance and exit of patrons and employees.
 - b. Any such alcohol sales use being established for the first time shall have no entrance or exit located within 100 feet of a residentially zoned or utilized property unless adequate sound attenuation measures have been undertaken to ensure sound measurements do not exceed the maximum measurements established in the Fontana Municipal Code or unless the entrance or exit is separated from the residentially zoned property by a public street.
 - c. A restaurant selling alcohol for on-site consumption should be a minimum of 600 feet away from an existing or proposed

school, park, religious institution, hospital, youth facility or other similar uses.

Chapter 33 – CANNABIS BUSINESSES AND ACTIVITIES

Sec. 33-30. Additional operating regulations for storefront retail.

- (a) No commercial cannabis retailer offering storefront purchase shall be located within 600 feet from another commercial cannabis storefront retailer. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of one commercial cannabis storefront retailer to the closest property line of the lot on which another commercial cannabis business is located without regard to intervening structures.
- (b) Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the commercial medicinal cannabis business shall obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or Identification Card as described in Health and Safety Code §§ 11362.71 through 11362.77, as may be amended from time to time, on site for period of not less than seven years.
- (c) Storefront retailers also providing delivery shall comply with the requirements pertaining to deliveries in section 33-30 of this chapter.
- (d) Commercial cannabis retailers selling medicinal cannabis shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of 18 years and that the potential customer has a valid doctor's recommendation. Adult use retailers shall verify the age of all customers to ensure persons under the age of 21 are not permitted on the premises. Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception or lobby area.
- (e) Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the demand readily available for sale on-site in the retail sales area of the retailer.
- (f) All restroom facilities shall remain locked and under the control of management.
- (g) A cannabis storefront retailer shall notify qualified patients, primary caregivers, and customers (verbally or by written agreement) and by posting of a notice or notices conspicuously in at least 15 point type within the permitted premises that state as follows:

- (1) "The sale or diversion of cannabis or cannabis products without a permit issued by the City of Fontana is a violation of state law and the Fontana City Code."
- (2) "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from a permittee is a crime and can lead to arrest."
- (3) "Patrons must not loiter in or near these premises and may not consume cannabis or cannabis products in the vicinity of this business or in any place not lawfully permitted. These premises and vicinity are monitored to ensure compliance."
- (4) "Warning: the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."
- (5) "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer."
- (6) Waste management. When managing cannabis goods, chemicals, hazardous or dangerous waste, Retailers are obligated to obtain all required permits, licenses, or other clearances and comply with all orders, laws, regulations, or other requirements of other regulatory agencies, including, but not limited to, local health agencies, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities. The sale of cannabis waste is prohibited. Retailers shall maintain accurate and comprehensive records at the premises regarding cannabis waste that accounts for, reconciles, and provides evidence of, all activity related to the generation and disposal or deposition of cannabis waste.
- (h) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle, except curbside delivery conducted pursuant to the following:
 - (1) A licensed retailer authorized to engage in storefront sales at their licensed premises may conduct sales through curbside delivery.
 - (2) Cannabis goods that have been purchased by a customer may be delivered to the customer in a vehicle at a location on the license retail premises, which is immediately outside the structure, and which is not located adjacent to the public right-of-way.
 - (3) Curbside delivery of cannabis goods must occur under video surveillance meeting the applicable operating procedures (including those submitted as part of the initial application process).

- (4) Retail employees engaging in curbside delivery must verify each customer's age pursuant to Sec. 33-29(k).