

RESOLUTION NO. PC 2026-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA APROVING CONDITIONAL USE PERMIT NO. 25-0014 TO ESTABLISH A SMOKE SHOP WITHIN AN EXISTING BUILDING AT 13819 FOOTHILL BOULEVARD, UNIT B (APN: 0230-011-03), PURSUANT TO A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15301.

WHEREAS, the project site, identified as 13819 Foothill Boulevard, Unit Band also as Assessor Parcel Number (“APN”) 0230-011-03 (“Project Site”), was annexed from San Bernardino County and incorporated into the City of Fontana October 24, 1990; and

WHEREAS, on August 1, 2025, the City of Fontana (City”) received an application from Esmeralda Alarcon (“Applicant”), for a Conditional Use Permit (“CUP No. 25-0014”) for the establishment of a smoke shop within an existing building at the Project Site (“Project”); and

WHEREAS the Project Site has a General Plan Land Use designation of Walkable Mixed-Use Corridor Downtown (WMXU-1), and is located within the Form Based Code (FBC)/Route 66 Gateway district which allows for such projects with a conditional use permit; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt pursuant to Section No. 15301 (Class No. 1, Existing Facilities) and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA as the project would not result in an increase of more than 50 percent of the existing square footage of the building; and

WHEREAS, all of the notices required by statute and the Fontana Municipal Code (FMC) have been given as required; and

WHEREAS, the owners of property within 660 feet of the Project Site were notified via a public hearing notice mailer prior to the public hearing; a notice of the public hearing was published in the Fontana Herald newspaper on March 27, 2026, and a notice of the public hearing was simultaneously displayed at City Hall and at the Project Site; and

WHEREAS, on April 7, 2026, a duly noticed public hearing on CUP No. 25-0014 was held by the Fontana Planning Commission (“Planning Commission”) to consider testimony and evidence presented by the Applicant, City staff and other interested parties; and

WHEREAS, the Planning Commission carefully considered all information, evidence and testimony presented at its public hearing on CUP No. 25-0014; and

WHEREAS, the City wishes to protect and preserve the quality of life throughout the City, through effective land use and planning; and

WHEREAS, the Conditions of Approval are attached hereto as **Exhibit “A”** for CUP
ATTACHMENT NO. 3

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

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 determines that the Project is categorically exempt pursuant to Section No. 15301 (Existing Facilities) of CEQA and Section No. 3.22 (Categorical Exemption) of the 2019 Local Guidelines for Implementing CEQA. The project site is exempt and meets the CEQA requirement for Section No. 15301 as the request is to establish a smoke shop within an existing building into a private school with minor on-site improvements and no physical expansion to the existing building, and none of the exceptions in CEQA Guidelines section 15300.2 apply to the project. Further, the Planning Commission directs Staff to file a Notice of Exemption pursuant to the finding.

Section 3. Conditional Use Permit Findings. The Planning Commission hereby makes the following findings for CUP No. 25-0014 in accordance with Section 30-150 "Findings for approval" for conditional use permits of the Fontana Zoning and Development Code:

Finding No. 1. That the proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan and any applicable Specific Plan or Area Plan and City Regulations/standards.

Findings of Fact: The Project site is located at 13919 Foothill Boulevard, Unit B (APN: 0230-011-03). The General Plan Land Use designation for the site is Walkable Mixed-Use Corridor Downtown (WXMU-1) and is located within the FBC/Route 66 Gateway zoning district. The Project Site is not located within any Specific Plan or Area Plan. The Zoning and Development Code permits a smoke shop subject to approval of a Conditional Use Permit. The request is to establish a smoke shop within an existing building.

Finding No. 2. The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.

Findings of Fact. The Project Site occupies an existing commercial building on a 2.0 acre lot. The physical characteristics of the site were reviewed by the Fontana Planning Commission at the time of approval for the development, and it was determined that the site met the requirements for yards, setbacks, walls, landscaping requirements and applicable Zoning and Development code regulations. On-site circulation is adequate with a driveway access point off Foothill

Boulevard. The addition of the new smoke shop will not negatively impact access or utilities nor create any physical constraints.

Finding No. 3. Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to person, property, or improvements in the vicinity in which the property is located.

Findings of Fact: The project has been reviewed with respect to potential adverse effects to health, safety, and the general welfare. Conditions of approval regarding the operation of the use will ensure that granting of the permit will not be injurious to persons, property, or improvements in the vicinity of the project. The Project has been reviewed by the Planning, Engineering, Building and Safety, and County Fire Prevention for site circulation, access, safety, and found to meet or exceed the requirements for all applicable building code, zoning, and fire code standards. The Project is to establish a smoke shop within an existing building of an existing commercial shopping center.

Section 4. Approvals. Based on the foregoing, the Planning Commission hereby approves Conditional Use Permit No. 25-0014 subject to the Findings and the Conditions of Approval attached hereto as “**Exhibit A**” and incorporated herein by this 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 validity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Fontana, California at a regular meeting held on this 7th 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 this 7th day of April 2026, by the following vote, to-wit:

ATTEST

AYES:

NOES:

ABSENT:

ABSTAIN:

Torrie Lozano, Secretary

“Exhibit A”



CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 25-0057
Conditional Use Permit No. 25-0014

DATE: April 7, 2026

LOCATION: 13819 Foothill Boulevard Unit B (APN:0230-011-03)

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
 - A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City’s issuance of a Certificate of Occupancy or other document evidencing the City’s final inspection and acceptance of the work; and
 - B. All other Conditions of Approval imposed by this project have been fulfilled.
2. This Conditional Use Permit shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Department inspection, has commenced within this period.
3. The Applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the Applicant’s proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the Applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain legal counsel. The Applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys’ fees, which may be

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incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by Applicant, the City and/or any parties bringing such forth.

The City of Fontana and the Applicant acknowledge that the City would not have approved this project if the City were to be liable to Applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, Applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

4. After the fifteen (15) day appeal period, the Applicant shall remove the notice of Filing sign from the project site. The Applicant may request a refund of the \$300 sign deposit. The request shall be submitted to the Planning Department.
5. This project shall comply with all applicable provisions, regulations and development standards of the Fontana Municipal Code.
6. The project shall incorporate graffiti resistant materials. The property owner shall at all times maintain an adequate amount of paint, matching the project, and shall abate any graffiti at the project within 48 hours of appearance of such graffiti.
7. All landscaping must be adequately maintained at all times. If the applicant/owner fail to maintain the landscape as originally approved, the owner/applicant shall be required to renovate the landscape to meet current landscape standards and water conservation ordinance.
8. All signs shall be reviewed under a separate Design Review Sign application. This includes, but is not limited to, building signs, monument signs, pylon signs, etc.
9. All temporary signs (banners, wind flags, etc.) shall not be placed on the property unless the proper permits are obtained.
10. Adhere to the City standard of one foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. Reflect all light fixtures on the site plan. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide.
11. The permitted hours of operation shall be between 10:00 A.M. and 10:00 P.M. Monday through Sunday.
12. At any time, the Director of Planning may bring a status report to the Planning Commission identifying impacts or failure to comply with conditions resulting from the Conditional Use Permit approval. Such status report may contain a police report regarding calls for service at the location. Nothing herein shall modify or limit the City's authority to regulate the business or modify or revoke the permit upon the City's

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determination that the business is operated in a manner adverse to the public's health, safety, and welfare.

13. No persons under the age of 21 shall be permitted within the business. All entry doors shall include signage stating all persons must be 21 or older to enter.
14. Employees engaged in the sale or distribution of any tobacco products or tobacco paraphernalia shall be at least 21 years of age.
15. Any and all products and materials of a sexual nature typically associated with an adult-oriented business, are not permitted.
16. The sale of food or beverages is not permitted.
17. No distribution of free or low-cost tobacco, tobacco products or paraphernalia, as well as coupons for said items, shall be permitted.
18. The sale of single cigarettes is not permitted.
19. The premises shall not provide, offer, allow or otherwise authorize, any type of delivery of merchandise, products or accessories.
20. The premises shall not operate as a cannabis dispensary. The premises shall not offer for sale: cannabis, cannabis infused items, or items infused with "THC" or Tetrahydrocannabinol, or "CBD" or Cannabidiol, which exceeds the state and/or federal legal limit of "THC" or Tetrahydrocannabinol.
21. Any item containing "CBD", or Cannabidiol, that exceeds the state and/or federal legal limit of "THC" or Tetrahydrocannabinol, is prohibited on the premises.
22. Signs shall comply with all City of Fontana sign requirements. No more than 25% of each storefront window and clear doors shall bear advertising, signage, window treatments or tint of any sort. Window signage, advertising, tint and/or window treatments shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows and doors of this location).
23. The operation of the business shall not violate any federal, state, or local laws or ordinances, including the rules, regulations and orders of the Federal Drug Administration Tobacco Control Laws and the California Stake Act, the California Bureau of Cannabis Control and all conditions of the City of Fontana's Conditional Use Permit. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit.
24. The business owner/management and staff shall comply with the City False Alarm Ordinances.
25. The business owner, management and employees of the business shall be required to prevent loitering in front of the store, and in the parking lot of the site. The management and employees of the business shall regularly police the area under its control to prevent the loitering of persons about the premises.

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26. A digital video surveillance system is required at the premise. It is recommended to be an internet-based system and shall be maintained in proper working order at all times. The surveillance video/visual media shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours.
27. The exterior of the business (front and rear), including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during the hours of darkness, at all entrances, sidewalks or parking surfaces, at a minimum of one foot candle of light.
28. A prominent, permanent sign or signs stating "NO LOITERING" shall be posted at the front entrance and on the exterior near the rear door and shall be clearly visible to patrons of the business. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.
29. No electronic arcade or amusement games are permitted within the business at any time.
30. In the event security problems occur, the Police Department (Chief of Police) will issue a letter to the owner requesting a meeting to discuss said security problems. If security problems are not resolved by the owner in the timeframe mutually agreed upon in said meeting, at the discretion of the Chief of Police, the business owner/management, at his or her own expense, shall provide a California licensed, uniformed security guard(s) on the premises, during such hours as requested and directed by the Police Department. All uniformed security guards shall comply with Fontana City Code section 22-62 and shall be registered with the State of California's Bureau of Security and Investigative Services as a security guard prior to employment within the City of Fontana.
31. The approved set of Conditions of Approval, and the State of California Tobacco license shall be posted at all times at a visible location behind the cashier's counter in the business and shall remain legible at all times.

END OF CONDITIONS