



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

Planning Commission

File #: 21-1699
Agenda #: PH-E

Agenda Date: 9/20/2022
Category: Public Hearing

FROM:

Planning Department

TITLE:

Master Case No. 22-110 and Municipal Code Amendment No. 22-007 - Fontana Municipal Code amendment to Chapter 2 (Administration), (Chapters 9 (Environmental Protection and Resource Extraction) Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities).

RECOMMENDATION:

Based on the information in the staff report staff recommends that the Planning Commission adopt Resolution PC No. 2022-____; and,

1. Determine that this Ordinance is categorically exempted 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, 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,

2. Approve a resolution recommending that the City Council adopt an Ordinance for Municipal Code Amendment (MCA) No. 22-007 to amend Chapter 2, Chapter 9, Chapter 25, Chapter 26, Chapter 30, and Chapter 33 of the Municipal Code.

APPLICANT:

City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

LOCATION:

Citywide

REQUEST:

A Municipal Code Amendment (MCA) No. 22-007 for amendments to: Chapter 2, 25, 26, and 30 to remove the Development Advisory Board (DAB) process; Chapter 9 to revise the definition of sensitive receptors; Chapter 30 to modify park/open space requirements within the Form Based Code, add language for density bonus/replacement units to address Senate Bill 330, and provide exemptions for City initiated projects; and Chapter 33 to include minor text modification to the Cannabis Business regulations.

PROJECT PLANNER:

Salvador Quintanilla, Senior Planner

BACKGROUND INFORMATION:

The City of Fontana Zoning and Development Code regulates the development of commercial, industrial, and residential projects. Staff has reviewed various chapters of the municipal code and determined that some of the language within the code sections need to be updated, clarified, and/or redefined to assist in streamlining the development process and create flexibility where appropriate. Therefore, staff is proposing the following modifications to these chapters.

ANALYSIS:

The City initiated Municipal Code Amendment No. 22-007 to update Chapter 2 (Administration), Chapters 9 (Environmental Protection and Resource Extraction) Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities) as summarized below; a detailed list of the proposed amendments is provided as part of Exhibit "A" of the Planning Commission Resolution (Attachment No. 1).

Revisions to Chapter 2, 25, and 26 and 30: This amendment includes the removal of all references to the Development Advisory Board (DAB) process. This will enable staff to facilitate the processing of development projects in a more timely manner and streamline the development process.

Revisions to Chapter 9, Section 9-71: With implementation of the recently-approved Sustainability Ordinance, staff has identified that requirements related to certain (generally nonconforming) residential properties, which are identified as sensitive receptors but which also contain industrial or commercial uses - including storage - operating on the same property as the residence, are resulting in undesirable design outcomes for proposed development adjacent to these properties. Commerce center docks and truck circulation routes must be sited away from sensitive receptors, which may require relocation to an area adjacent to the street right of way resulting in a less desirable visual aesthetic, while having little to no beneficial effect on a residence already surrounded by, or at least co-located with, industrial or similar uses. As a result, staff proposes amending the definition of sensitive receptors as identified.

Additional Revisions to Chapter 30: This amendment will add to or update various sections of the zoning and development code including establishing a program for residential replacement units to address SB 330, modifying regulations related to Form Based Code park/open space requirements, and adding language for city-initiated projects eliminating the need to comply with development standards and entitlement requirements.

Add Article XV (No Net Loss/Density Bonus Program) to Chapter 30:

The proposed Development Code Amendment would establish a "No Net Loss Program" to provide that concurrent with the approval of any change in zone from a residential use to a less intensive or non-residential use, replacement units in the form of 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 changes will ensure that there is no

net loss of residential capacity within the City as required by Senate Bill 330 ("SB 330).

This Development Code Amendment would create a No Net Loss/Density Bonus Program wherein "replacement units" - those units no longer available for residential development based on a change in zone from a residential use to a less intensive or non-residential use - are made available to developers of residential housing dwelling units within residentially zoned districts. This approach to meeting the requirements of SB 330 is more flexible and facilitative than simply rezoning an alternative property as it encourages additional housing development by those who are demonstrably ready, willing, and able to move forward with the development process as evidenced by submittal of entitlements for residential development whereas a rezoned property may or may not have a property owner that is ready, willing, and able to develop. Additionally, SB 330 specifically provides for alternative approaches beyond just rezoning property to ensure no net loss in residential capacity. Government Code 66300 Section (i)(1) states that "This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use *if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels* within the jurisdiction to ensure that there is no net loss in residential capacity" (*emphasis added*). The proposed ordinance would ensure that upon rezoning properties subject to SB 330, the development standards, policies, and conditions applicable to other parcels are concurrently changed to ensure no net loss in residential capacity. Multiple other cities have adopted similar ordinances to meet the requirements of SB 330.

Add language to Chapter 30, Section 30-4: Public Projects

Division 1 of Article I of the Development Code does not currently exclude "public projects"; proposed addition of language to the Development Code of Section 30-3.1 to Chapter 30 will improve the efficiency of public projects by eliminating the need to comply with specific development standards and the requirement for entitlements approvals following the City Council's direction to initiate public projects.

Add language to Chapter 30, Section 30-399 through 404: Public Open Space

Division 10 of Article 3 of the Development Code will be amended to allow developers to build common open space or public open space that includes amenities. Currently, developers are required to provide public open space for projects over two acres. The public open space is intended to be open to the public and constructed on private properties along street frontages. Planning staff has determined this can be a challenge for projects with narrower lots and interior amenities.

Revisions to Chapter 33: This section will update some language to the Cannabis Business and Activities ordinance. This amendment includes clarifying inconsistencies with the application process and permitted uses table.

In summary, the proposed amendments are proposed in order to provide flexibility in, and streamlining of, the City's Municipal Code.

MOTION:

Approve staff recommendation.

ATTACHMENTS:

1. Planning Commission Resolution/Exhibit A
2. Notice of Exemption
3. Notice of Public Hearing

RESOLUTION PC NO. 2022-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING CITY OF FONTANA CODE (“CODE”) AMENDMENT (MCA) NO. 22-007 AMENDING SECTIONS OF CHAPTERS 2, 25, 26, AND 30 TO ELIMINATE THE DEVELOPMENT ADVISORY BOARD (DAB); AMENDING CHAPTER 9 TO REVISE THE DEFINITION OF “SENSITIVE RECEPTORS”; AMENDING CHAPTER 30 TO EXEMPT THE CITY FROM CERTAIN ZONING REGULATIONS AND DESIGN GUIDELINES FOR CITY OWNED, CONTROLLED, OR LEASED PROPERTIES OR FACILITIES; AMENDING CHAPTER 30 TO ALLOW DEVELOPMENT PROJECTS OVER TWO ACRES TO DEVELOP FIVE PERCENT OF COMMON SPACE AS “COMMON OPEN SPACE”; ADDING ARTICLE XV TO CHAPTER 30 CREATING A NO NET LESS DENSITY BONUS/REPLACEMENT PROGRAM; AND AMENDING TABLE NOS. 30-489 AND 30-453 TO RENAME CANNABIS RETAIL STORES AND ADDING SECTION 33-8(4)(III) TO CHAPTER 33, TO REQUIRE AN AUTHORIZATION LETTER FOR PERMIT APPLICATIONS.

WHEREAS, pursuant to article XI, section 5 of the California Constitution and 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;

WHEREAS, Government Code sections 50022.1 to 50022.10 authorize a city to codify its ordinances;

WHEREAS, Government Code section 50022.10 authorizes the recodification or recompilation of any adopted and fully published code;

WHEREAS, the amendments to the Code of the City of Fontana (“Code”) which are enacted by the adoption of this Ordinance are described in the planning agenda report accompanying this Resolution;

WHEREAS, the City desires to restate without substantive revision, amend, and recodify certain ordinances codified in the Code;

WHEREAS, the descriptions included in the planning staff report, and minutes contain the findings of the City Council in support of this Resolution and serve as evidence of the Planning Commission's intention in adopting this Resolution;

WHEREAS, the City seeks to amend various section of Chapters 2, 25, 26, and 30 to streamline the development project review process by eliminating the Development Advisory Board from the Code; and

WHEREAS, on February 8, 2022, the City Council adopted Industrial Center Sustainability Ordinance No. 1879, amending and renumbering Article V of Chapter 9 of the Code to add improvement and construction requirements to industrial commerce centers throughout the City, however the requirements for sensitive receptors (i.e., residential properties) are resulting in undesirable design outcomes because the definition of sensitive receptors includes residential properties that include industrial or commercial uses operating on the same property. This proposed Code amendment will change the definition of sensitive receptors in Section Sec. 9-71 to exclude residential properties with an existing industrial, commercial, unpermitted or non-conforming use; and

WHEREAS, Division 1 of Article I of the Zoning and Development Code does not currently exclude "public projects", and the proposed addition to the Development Code of Section 30-3.1 to Chapter 30 will improve the efficiency of public projects by eliminating the need to comply with specific development standards and the requirement for entitlements approvals for public projects, though will remain subject to discretionary review by City staff; and

WHEREAS, Division 10 of Article III of Chapter 30 the Development Code currently provides for public open space standards applicable to all proposed development within the Form-Based Code districts, and this proposed amendment would expand that requirement to allow for "common open spaces" defined in the proposed code amendment to include an amenity such as a tot lot, outdoor sports recreation area, bar-b-que with picnic tables, or equivalent and additional requirements in the restated, renumbered and amended Sections 30-399 to 30-404A; and

WHEREAS, Chapter 30 of the Development Code does not currently include a program to address SB 330, and this Code Amendment would establish a No Net Loss/Density Bonus/Replacement Program in order to provide for the concurrent approval of any change in zone from a residential use to a less intensive or non-residential use with the creation of "replacement units" in the form of a density bonus available to project applicants subsequently seeking to develop property for residential use within the City; and

WHEREAS, on July 12, 2022, City Council adopted Ordinance No. 1899 to add Chapter 33 (Cannabis Businesses and Activities) to the City Code, which provides for the issuance of Commercial Cannabis Permits within the City to operate retail and delivery cannabis operations. Permits will be issued pursuant to a merit-based, professional review process that includes an initial application. The initial application does not currently include a requirement for an Authorization Letter, though that term is defined in Section 33-5, to mean proof of ownership, lease agreement of a "Letter of Intent" to lease a

premises by the operation of a Commercial Cannabis Business. This proposed amendment would add a requirement for an Authorization Letter as part Phase One of the application process and include other minor clarifications; and

WHEREAS, a notice of the public hearing was published in the local newspaper on Friday, September 9, 2022 and posted at City Hall; and

WHEREAS, on September 20, 2022, the Planning Commission received public testimony on City Code Amendment (MCA) No. 22-007 and determined 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. 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; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed City Code Amendment, including the staff report, and all the information, evidence, and testimony presented at its public hearing on September 20, 2022; and

WHEREAS, the new General Plan includes policies and actions calling for numerous updates to the Municipal Code; and

WHEREAS, State law requires Zoning regulations to be consistent with the General Plan, and therefore updating the Municipal Code would contribute to consistency with the General Plan; and

WHEREAS, the Planning Commission finds that the proposed amendment to the City Code is consistent and compatible with the General Plan, and that the updates directly implement General Plan goals, policies, objectives, the Housing Element policies, and the Zoning and Development Code; and

WHEREAS, the Planning Commission finds that the proposed amendments to Chapter 2, 9, 25, 26, 30, and 33 of the City Code will be in conformity with good land use practice and is intended to facilitate ease of use and understanding, as well as to establish appropriate development standards for the land use designations; and

WHEREAS, the Planning Commission finds that the proposed amendment to the City Code (Exhibit "A") will not be detrimental to the public health, safety, and general welfare, and will not adversely affect the orderly development of property, and will better express the City's policies, and generally promote good land use planning and regulation.

NOW, THEREFORE, the Commission RESOLVES as follows:

Section 1. Recitals. The above recitals are incorporated herein by reference.

Section 2. Based on the foregoing, the Planning Commission hereby recommends that the City Council determine 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. That the Planning Commission hereby recommends that the City Council adopt an ordinance approving MCA No. 22-007 which amends the City Code as indicated in Exhibit "A" as referenced herein.

Section 4. 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 5. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this 20th day of September, 2022.

City of Fontana

Cathline Fort, Chairperson

ATTEST:

I, Idilio Sanchez, 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 20th day of September, 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Idilio Sanchez, Secretary

EXHIBIT A

AMENDMENTS TO CODE CHAPTERS 2, 9, 25, 26, 30, AND 33

CHAPTER 2 - ADMINISTRATION

1. Chapter 2, Article VIII. – Boards, Commissions and Committees, Footnote 6 of the Code is hereby restated and amended as follows:

Footnotes:

--- (6) ---

Cross reference— Historic preservation commission, § 5-353 et seq.; fly abatement and appeals board, § 13-98; parks and community services commission, § 19-31 et seq.; planning commission, § 21-51 et seq.; ~~development advisory board, § 30-1072.~~

CHAPTER 9 - ENVIRONMENTAL PROTECTION AND RESOURCE EXTRACTION

1. Chapter 9, Article V. – Industrial Commerce Centers Sustainability Standards of the Code is hereby restated and amended as follows:

Sec. 9-71. - Buffering and screening/adjacent uses.

- (a) For any warehouse building larger than 50,000 square feet in size, a ten-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. For any warehouse building larger than 400,000 square feet in size, a 20-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. The buffer area(s) shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height, natural ground landscaping, and solid screen buffering trees, as described below, unless there is an existing solid block wall. For any warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as ~~any residence including private homes, condominiums, apartments, and living quarters,~~ schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, parks (excluding trails), prisons, dormitories, and any residence including; private homes, condominiums, apartments, and living quarters, where such residence is that are not located on a parcel with an existing industrial, commercial, unpermitted or non-conforming use.
- (b) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner and any successors in interest shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.
- (c) All landscaping shall be drought tolerant, and to the extent feasible, species with low biogenic emissions. Palm trees shall not be utilized.
- (d) All landscaping areas shall be properly irrigated for the life of the facility to allow for plants and trees to maintain growth
- (e) Trees shall be installed in automobile parking areas to provide at least 35 percent shade cover of parking areas within 15 years. Trees shall be planted that are capable of meeting this requirement.
- (f) Unless physically impossible, loading docks and truck entries shall be oriented away from abutting sensitive receptors. To the greatest extent

feasible, loading docks, truck entries, and truck drive aisles shall be located away from nearby sensitive receptors. In making feasibility decisions, the city must comply with existing laws and regulations and balance public safety and the site development's potential impacts to nearby sensitive receptors. Therefore, loading docks, truck entries, and drive aisles may be located nearby sensitive receptors at the discretion of the planning director, but any such site design shall include measures designed to minimize overall impacts to nearby sensitive receptors.

- (g) For any warehouse building larger than 400,000 square feet in size, the building's loading docks shall be located a minimum of 300 feet away, measured from the property line of the sensitive receptor to the nearest dock door which does not exclusively serve electric trucks using a direct straight-line method.

CHAPTER 25 - STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

1. Chapter 25 Streets, Sidewalks, and Other Public Ways, Article VII – Wireless Facilities in the Public Right-of-way is hereby amended as followings:

Sec. 25-252. Applications.

(a) *Preapplication (PAM) application and wireless facilities in the public right-of-way application are required for all new wireless facilities in the public right-of-way (collocation, small cell facility, and all other types of wireless facilities that are not modifications or eligible facilities requests).* An applicant proposing to install a new wireless facility on either an existing or new pole/infrastructure shall submit a PAM in conjunction with an application for wireless facilities in the public right-of-way (collocation, small cell facility, and all other types of wireless facilities that are not considered modifications or eligible facilities requests) and any required supplemental information to the planning division, at 8353 Sierra Avenue, Fontana Ca. 92335. Pre-applications will be reviewed by the Planning Department. ~~at a development advisory board conference meeting to discuss the proposed facility, the requirements of this article, and any potential impacts of the proposed facility.~~

(b) *Wireless facilities in the public right-of-way application is required for modifications/replacement of existing wireless facilities in the public right-of-way (including eligible facilities requests).* Applications to modify/replace existing wireless facilities on an existing pole/infrastructure in the public right-of-way and for projects qualifying as eligible facilities requests shall be filed with the engineering department, at 8353 Sierra Avenue, Fontana Ca. 92335. City staff will review the proposal along with the requirements of this article, and any potential impacts of the proposed facility.

(c) *Additional applicable permits.* In addition to the applications mentioned in subsections 25-252(a) and 25-252(b) above, the applicant is required to file applications for and obtain all applicable permits, such as, but not limited to, the following: Building permits, electrical permits, excavation permit and traffic control permit, landscaping plan check, certificate of appropriateness, and annual blanket permit for wireless facilities in the public right-of-way.

(d) *Fees.* Application fee(s) shall be submitted with any applications.

(e) *Incompleteness.* For personal wireless facilities and eligible facilities requests, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, the city may notify the applicant in writing, and specifying the material omitted from the application.

(Ord. No. 1862 , § 5(Exh. A), 1-26-21)

CHAPTER 26 - SUBDIVISIONS

1. Chapter 26, Subdivisions, Article II. - Tract Maps - Division 1 is hereby restated and amended as follows:

Section 26-26. – Definitions.

“The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board of building commissioners means the five-member board appointed by the mayor with the approval of the city council which hears matters pertaining to buildings and structures relative to the Uniform Building Code.

Circulation master plan means the plan for streets and thoroughfares which has been adopted and approved by the city council, together with any approved revisions or modifications thereof.

City attorney means the city attorney, acting either directly or through properly authorized agents acting within the scope of the particular duties entrusted to them.

City engineer means the city engineer, acting either directly or through properly authorized agents acting within the scope of the particular duties entrusted to them.

County means the County of San Bernardino, and when used to modify an officer, office or department shall mean that officer, office or department of the county and shall include properly authorized agents of that officer, office or department acting within the scope of the particular duties entrusted to them.

~~Development advisory board means a board composed of various city departments, county agencies and other autonomous agencies which reviews projects for consistency with adopted codes and standards and makes recommendations to the planning commission.”~~

General plan means the general plan of the city providing goals, objectives and policies for the longterm orderly development of the city.

Notice of official filing means a written notice issued by the planning department indicating that a project has received environmental clearance and is now considered as officially filed providing that all submittal requirements have been met.

Owner means the person having sufficient proprietary interest in the land to be subdivided to commence and maintain proceedings to subdivide the land under this article.

Public improvements includes streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, lighting facilities and traffic controls, including traffic control devices and traffic control signals.

Specific plan means a detailed plan which reviews economic, environmental and design impacts of development within a specific area and sets forth goals, objectives, policies and regulations for the development of that specific area.

Subdivider means any person commencing proceedings under this article to effect a subdivision of land under this article for himself or for another.

Subdivision means the division, by any subdivider, of any unit of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future, except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-way. The word "subdivision" includes a condominium project as defined in Civil Code § 1350, a community apartment project as defined in Business and Professions Code § 11004, or the conversion of five or more existing dwelling units to a stock cooperative as defined in Business and Professions Code § 11003.2.

Vesting tentative tract or parcel map means a tentative tract or parcel map which, if approved, allows development in substantial compliance with the ordinances, policies and standards in effect at the time a notice of official filing is issued by the planning department in conformance with the state Subdivision Act.

2. Chapter 26, Article II – Tract Maps - Division 2. – Tentative Tract Map Requirements, Section 26-52 – Application is hereby restated and amended as follows:

Sec. 26-52. - Application.

(a) All subdividers requesting approval of tentative tract maps shall file with the planning department a tentative tract map application in form, format and content as established by ordinance and resolution of the city council. The application shall be subject to the provisions of chapter 30, article XVI.

(b) At least one copy of the map shall be forwarded to each of the following agencies and departments, which shall have 21 calendar days after receipt thereof to comment or make recommendations with respect to the subdivision:

(1) Each government agency entitled by law to review and recommend thereon.

(2) The district engineer of the division of highways of the state, as provided by Business and Professions Code § 11528.1.

~~(3) The affected school districts which are not members of the development advisory board.~~

~~(4) Publicly and privately owned utilities serving the area.~~

~~(c) At least one copy of the map shall be forwarded to each of the following entities members of the development advisory board:~~

~~(1) The building and safety department.~~

~~(2) The Central Valley Fire District.~~

~~(3) The Fontana Unified School District.~~

~~(4) The parks and recreation department.~~

~~(5) The police department.~~

~~(6) The public works and engineering department.~~

~~The development advisory board shall review the map and forward a recommendation with appropriate conditions to the planning commission within the processing time limits prescribed by section 30-1365.~~

CHAPTER 30 - ZONING AND DEVELOPMENT CODE

1. Chapter 30, Zoning and Development Code, Article I. – Provisions and Definitions is hereby restated and amended as follows:

Sec. 30-1. Purpose.

This article establishes official land use zoning regulations and design guidelines. The zoning districts and regulations set forth in this article are consistent with the goals and policies of the general plan and are designed to:

- (1) Encourage the most appropriate use of land and ensure compatibility between uses;
- (2) Provide open space for light, air, and the preservation of resources;
- (3) Facilitate the timely provision of adequate infrastructure and community facilities;
- (4) Promote excellent architectural design; and
- (5) Promote health, safety, and general welfare of the residents and visitors of the City.

Sec. 30-2. Minimum requirements.

The interpretation and application of the provisions of this article shall be the minimum requirements for the promotion of public health, safety, and welfare. It is not the intent of this article to limit standards to minimums.

Sec. 30-3. Greater or conflicting provisions.

Where any provision of this article imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by any other provisions of the Municipal Code, law, ordinance, restrictive covenant, or easement, this article shall govern.

Sec. 30-3.1 Public Projects.

Notwithstanding any other lawful exemptions to zoning regulations, the provisions of this title, shall not apply to any development standards or entitlement processes any buildings, improvements, lots, or premises, owned, leased, operated or controlled by the City or any City Project for public purpose by the City of Fontana. Such projects would still require discretionary review by the City.

2. Chapter 30, Article II. - Division 4. - Hearing Bodies and Notification is hereby restated and amended as follows:

Section 30-22. – Hearing bodies.

The following ~~three~~ hearing bodies shall make decisions on the various procedures provided for in this Development Code. All hearing bodies shall be responsible for the hearings indicated in Table No. 30-22.

Decisions of any “reviewing body” may be appealed to the City Council, except where State law limits such appeal to the City Engineer. If the Planning Commission is listed above as the “appeal body,” the Commission must first review an appeal before it may be forwarded to the City Council for consideration.

~~DAB—Development Advisory Board—Recommending body~~

DCD—Director of Community Development—Approval body

PC—Planning Commission—Approval body

CC—City Council—Approval body

PR—Parks, Community, and Human Services Commission—
Recommending body

X- Indicates the reviewing and/or the approval body

a—Indicates that the reviewing body is to provide a recommendation to the City Council

b—Indicates that the reviewing body is to provide a recommendation to the Planning Commission

Table No. 30-22							
	Reviewing Bodies					Appeal Body	
Project Type	DAB	DCD	PR	PC	CC	PC	CC
Administrative Site Plan, Amendment	X	X				X	

Administrative Site Plan, Major	X	X				X	
Administrative Site Plan, Minor	X	X				X	
Administrative Site Plan, Modification	X	X				X	
Area Plan	X			Xa	X		
Certificate of Appropriateness					X		
Conditional Use Permit	X			X			X
Conditional Use Permit Amendment	X			X			X
Conditional Use Permit Modification	X			X			X
Density Bonus	X			Xa	X		
Design Review	X			X			X
Design Review, Amendment	X			X			X
Design Review, Modification	X			X			X
Design Review, Signs		X				X	
Director's Determination		X				X	
Development Agreements				Xa	X		

Development Agreements, Amendment				Xa	X		
General Plan Amendments	X			Xa	X		
Home Occupation Permit		X				X	
Lot Line Adjustment		X				X	
Minor Use Permit	X	X				X	
Minor Use Permit, Amendment	X	X				X	
Minor Use Permit, Modification	X	X				X	
Parcel Maps, Tentative	X	X				X	
Parcel Maps, Final		X				X	
Park Review	X		Xb	X			X
Specific Plan, Amendment	X			Xa	X		
Temporary Use		X		X			
Tract Maps, Tentative	X			X	X		
Tract Maps, Final					X		
Variances	X			X	X		
Variances, Administrative	X	X				X	

Time Extension, Parcel Map						X	
Time Extension, Tract Map				X			X
Time Extension, Projects	X	X				X	
Development Code and Zoning District Map, Amendment	X			Xa	X		

3. Chapter 30, Article II. Division 4. – Hearing Bodies and Notification is hereby restated and amended as follows:

Section 30-24. – Posting.

(a) *City initiated projects.* If a notice of public hearing for a City initiated general plan amendment, specific plan, zone change, design review, and tentative tract or any other application affecting a specific property or properties exceeding 20 acres and/or would result in the mailing or delivering of more than 1,000 notices, the notice of public hearing shall also either be:

(1) Published in at least one newspaper of general circulation in the City no less than one time and no less than ten days prior to the date of the hearing; or

(2) Posted at least ten days prior to the hearing in at least three public places in the City, including one public place in the area directly affected by the proceeding.

(b) *Applicant initiated projects.* Notice of public hearing for applicant-initiated projects affecting a specific property shall also be made by a posting on the site (by the applicant) ~~in a conspicuous location no longer than ten days after the initial Development Advisory Board (DAB) review.~~

(1) A four-foot by eight-foot sign or signs shall be required to be posted at the project site. Daycare notification may be a two by two banner visible from the right-of-way. The purpose of the sign notice requirement is to notify the community and the neighbors in the affected area early in the review process, allowing the applicant and the City the benefit of citizens' comments during the initial stage of project review. A cash deposit to the City is required to ensure compliance with the notification requirements including removal of

the notification sign. The project application shall not be deemed complete until the large sign is installed.

(2) Sign criteria. In order to implement the signs as an effective form of public notification, the following rules and standards shall apply.

a. *Sign size and specification.* All sign(s) shall be four feet by eight feet in size and be constructed to the specifications determined by the Planning Division. The specific project information text on the sign shall be provided by the Planning Division.

b. *Location and installation standards.* All sign(s) shall be installed according to the specifications determined by the Planning Division. The signs shall be posted on each street frontage. Additional signs may be required as determined by the Planning Division.

c. *Sign removal and maintenance.* All sign(s) shall be maintained and remain in place until the final decision on the application has been made or the application has been withdrawn. All sign(s) shall be removed by the applicant after 15 days of the final decision or date of withdrawal. Failure to remove the sign(s) within the prescribed period may result in forfeiture of the cash deposit.

4. Chapter 30, Article II. Division 6 – General Plan Amendment is hereby restated and amended as follows:

Section 30-33 – Pre-application meeting.

Prior to the filing of an application for a general plan amendment, the applicant or the applicant's representative shall apply for a pre-application review by City Staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The Staff recommendations~~ should be incorporated into the project prior to filing the formal application.

5. Chapter 30, Article II. – Administrative Procedures - Division 4. – Hearing Bodies and Notification, Section 30-35 “Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Section 30-35 – Reserved.

6. Chapter 30, Article II. Division 8. - Area Plan and Area Plan Amendment, Subdivision I. Area Plan is hereby restated, amended, and renumbered as follows:

Sec. 30-49. - Submission requirements.

A proposal for an area plan shall be processed upon the application of the property owner(s), subject to the following provisions:

~~(1) Submission of a preliminary application and area plan for review by the Development Advisory Board.~~

(1) Submission of a formal area plan and related material as required on the application form for review and recommendation by the Planning Commission and final decision by the City Council.

(2) Submission of a conditional use permit and design review applications.

7. Chapter 30, Article II. Division 8. - Area Plan and Area Plan Amendment, Subdivision I. – Area Plan, Section 30-51 is hereby deleted in entirety and amended to read as follows:

Section 30-51. – Pre-application meeting for area plan.

Prior to the filing of an application for an area plan, the applicant or the applicant's representative shall ~~hold~~ apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

8. Chapter 30, Article II. – Division 8. - Area Plan and Area Plan Amendment, Subdivision I. – Area, Section 30-54 “Development Advisory Board (DAB) Review” is hereby deleted and amended to read as follows:

Section 30-54 – Reserved.

9. Chapter 30, Article II. Division 8. - Area Plan and Area Plan Amendment, Subdivision II. – Area Plan Amendments, Section 30-60 – Pre-application meeting for area plan is hereby restated and amended as follows:

Section 30-60 – Pre-application meeting for area plan.

(a) Prior to the filing of an application for an area plan amendment, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

(b) ~~Following the preliminary consultation of the applicant and City staff,~~
The Director of Community Development Planning will determine when the

conceptual project will be submitted to the Planning Commission for a workshop. The presentation to the Planning Commission shall be an informal presentation for informative purposes only and is only intended to obtain Planning Commission comments on the proposed project. The applicant shall not receive any rights or entitlements pursuant to this informal review procedure and the Planning Commission shall not be bound by their comments. The Planning Commission or City Council may request changes to the project when it is formally presented for their consideration even if those changes differ from the Planning Commission comments and requests made during the informal review procedure.

10. Chapter 30, Article II. – Administrative Procedures – Division 8. - Area Plan and Area Plan Amendment, Subdivision II. – Area Plan Amendments, Section 30-62 – Development Advisory Board (DAB) is hereby deleted and amended to read as follows:

Section 30-62 – Reserved.

11. Chapter 30, Article II. Division 9. – Specific Plan Amendment, Section 30-68. – Pre-application meeting is hereby restated and amended as follows:

Sec. 30-68. - Pre-application meeting.

Prior to the filing of an application for an amendment to a specific plan, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

12. Chapter 30, Article II. Division 9. – Specific Plan Amendment, Section 30-70. – Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-70. – Reserved.

13. Chapter 30, Article II, Division 10. – Administrative Site Plan, Major, Minor, Amendment, and Modification, Subdivision I. – Administrative Site Plan – Major, Section 30-76 – Authority is hereby restated and amended as follows:

Sec. 30-76. - Authority.

The Director of ~~Community Development~~ Planning or designee is authorized to approve or deny administrative site plan, major, minor, modifications and amendment review applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval. Conditions may include, but shall not be

limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress, egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion.

14. Chapter 30, Article II. Division 10. – Administrative Site Plan, Major, Minor, Amendment, and Modification, Subdivision I. – Administrative Site Plan – Major, Section 30-78 is hereby restated and amended to read as follows:

Sec. 30-78. – Pre-application meeting.

Prior to the filing of an application for an administrative site plan, major, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

15. Chapter 30, Article II. Division 10. – Administrative Site Plan, Major, Minor, Amendment, and Modification, Subdivision II. – Administrative Site Plan – Minor, Section 30-88. – Pre-application meeting is hereby restated and amended as follows:

Sec. 30-88. - Pre-application meeting.

Prior to the filing of an application for an administrative site plan, minor, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

16. Chapter 30, Article II. Division 10. – Administrative Site Plan, Major, Minor, Amendment, and Modification, Subdivision II. – Administrative Site Plan – Minor, Section 30-90. – Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-90. – Reserved.

17. Chapter 30, Article II. Division 10. – Administrative Site Plan, Major, Minor, Amendment, and Modification, Subdivision III. – Administrative Site Plan – Amendment, Section 30-97 is hereby restated and amended as follows:

Sec. 30-97. - Authority.

The Director of Community Development Planning or designee is authorized to approve or deny administrative site plan, amendment review applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress, egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion."

18. Chapter 30, Article II. Division 10, Subdivision III. Administrative Site Plan Amendment, Section 30-98 "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-98. - Pre-application meeting.

Prior to the filing of an application for an administrative site plan, amendment, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application. Projects determined minor in nature may be waived of this process by the Director of Community Development.~~

19. Chapter 30, Article II. Division 10. Subdivision III., Administrative Site Plan Amendment, 30-100. – "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-100 – Reserved.

20. Chapter 30, Article II. Division 10. Subdivision IV., Administrative Site Plan Modification, Section 30-107 "Authority", is hereby restated and amended as follows

Sec. 30-107. - Authority.

The Director of Community Development Planning or designee is authorized to approve or deny administrative site plan, modification review applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications, regulation of

vehicular ingress, egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion.”

21. Chapter 30, Article II. Division 10. Subdivision IV. Administrative Site Plan Modification, Section 30-108 “Pre-application meeting” is hereby restated and amended as follows:

Sec. 30-108. - Pre-application meeting.

Prior to the filing of an application for an administrative site plan, modification, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application. Projects determined minor in nature may be waived of this process by the Director of Community Development.~~

22. Chapter 30, Article II. Division 10. Subdivision IV. Administrative Site Plan Modification, Section 30-110. “Development Advisory Board (DAB) review” is hereby deleted and amended to read as follows:

Sec. 30-110 – Reserved.

23. Chapter 30, Article II. Division 11. – Design, Review, Amendment, and Modification, Subdivision I. Design Review, Section 30-117 – Pre-application meeting is hereby restated and amended as follows:

Sec. 30-117. - Pre-application meeting.

Prior to the filing of an application for a design review, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

24. Chapter 30, Article II. Division 11, Subdivision I. Design Review, Section 30-119. “Development Advisory Board (DAB) review” is hereby deleted and amended to read as follows:

Sec. 30-119 – Reserved.

25. Chapter 30, Article II. Division 11, Subdivision II. Design Review Amendment, Section 30-126 is hereby restated and amended as follows:

Sec. 30-126. - Pre-application meeting.

Prior to the filing of an application for a design review, amendment, the applicant or the applicant's representative shall apply for a pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

26. Chapter 30, Article II. Division 11. Subdivision II. Design Review Amendment, Pre-application meeting Section 30-128, "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-128 – Reserved.

27. Chapter 30, Article II. – Division 11. Subdivision II. – Design Review - Modification, Section 30-137. "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-137. - Pre-application meeting.

Prior to the filing of an application for a design review, modification, the applicant or the applicant's representative shall apply for pre-application review by City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application. Projects determined minor in nature may be waived of this process by the Director of Community Development.~~

28. Chapter 30, Article II. – Division 11. Subdivision II. – Design Review - Modification, 30-139. – "Development Advisory Board (DAB)" review are hereby deleted in their entirety is hereby deleted and amended to read as follows:

Sec. 30-139 – Reserved.

29. Chapter 30, Article II. Division 12. – Conditional Use Permit, Amendment, and Modification, Subdivision I. – Conditional Use Permit, Section 30-146 is hereby restated and amended as follows:

Sec. 30-146. - Authority.

The Planning Commission is authorized to approve or deny applications for conditional use permit, ~~upon review of the Development Advisory Board comments,~~ and to impose conditions upon such approval.

30. Chapter 30, Article II. Division 12. Subdivision I. Conditional Use Permit, Section 30-147. "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-147. - Pre-application meeting.

~~Prior to the filing of an application for a conditional use permit, the applicant or the applicant's representative shall apply for a pre-application review by City staff. meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application. Projects determined minor in nature may be waived of this process by the Director of Community Development.~~

31. Chapter 30, Article II. Division 12. Subdivision I. – Conditional Use Permit, Section 30-149. “Development Advisory Board (DAB) review” is hereby deleted and amended to read as follows:

Sec. 30-149 – Reserved.

32. Chapter 30, Article II. Division 12, Subdivision II. Conditional Use Permit - Amendment, Section 30-157 “Pre-application meeting” is hereby restated and amended as follows:

Sec. 30-157 – Pre-application meeting.

~~Prior to the filing of an application for a conditional use permit amendment, the applicant or the applicant's representative shall apply for a pre-application review by City staff. meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The Staff recommendations should be incorporated into the project prior to filing the formal application. Projects determined minor in nature may be waived of this process by the Director of Community Development Planning.~~

33. Chapter 30, Article II, Division 12, Subdivision II. Conditional Use Permit Amendment, Section 30-159, “Development Advisory Board (DAB) review” is hereby deleted and amended to read as follows:

Sec. 30-159 – Reserved.

34. Chapter 30, Article II, Division 12, Subdivision III, Conditional Use Permit Modification, Section 30-166 “Pre-application meeting” is hereby restated and amended as follows:

Sec. 30-166 – Pre-application meeting.

~~Prior to the filing of an application for a conditional use permit modification, the applicant or the applicant's representative shall apply for a pre-application review by City staff. meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be~~

~~incorporated into the project prior to filing the formal application.~~ Projects determined minor in nature may be waived of this process by the Director of Community Development.

35. Chapter 30, Article II, Division 12, Conditional Use Permit, Amendment, and Modification, Subdivision III, Conditional Use Permit, Section 30--168. "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-168 – Reserved.

36. Chapter 30, Article II, Division 13, Minor Use Permit, Section 30-175. "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-175 – Pre-application meeting.

Prior to the filing of an application for a minor use permit, the applicant or the applicant's representative shall ~~hold~~ apply for a pre-application ~~conference with the Development Advisory Board~~ review by City staff. Projects determined minor in nature may be waived of this process by the Director of Community Development.

37. Chapter 30, Article II, Division 13 Minor Use Permit, Section 30-177, "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-177 – Reserved.

38. Chapter 30, Article II, Division 13, Subdivision II, Minor Use Permits Amendment, Section 30-186 "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-186 – Pre-application meeting.

Prior to the filing of an application for a minor use permit amendment, the applicant or the applicant's representative shall ~~hold~~ apply for a pre-application ~~conference with the Development Advisory Board~~ review by City staff. Projects determined minor in nature may be waived of this process by the Director of Community Development.

39. Chapter 30, Article II, Division 13, Subdivision II, Minor Use Permits Amendment, Section 30-188 "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-188 – Reserved.

40. Chapter 30, Article II. Division 13. – Minor Use Permits, Amendment, and Modification, Subdivision III. – Minor Use Permits Modification, Section 30-194 "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-194. - Pre-application meeting.

Prior to the filing of an application for a minor use permit modification, the applicant or the applicant's representative shall ~~hold~~ apply for a pre-application conference with the ~~Development Advisory Board review by City staff~~. Projects determined minor in nature may be waived of this process by the Director of Community Development.

41. Chapter 30, Article II, Division 13, Subdivision III. Minor Use Permits Modification, Section 30-196 "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-196 – Reserved.

42. 30, Article II, Division 14, Subdivision I. Administrative Variance, Section 30-204 "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-204. - Pre-application meeting.

Prior to the filing of an application for an administrative variance, the applicant or the applicant's representative shall ~~hold~~ apply for a pre-application conference with the ~~Development Advisory Board~~ City staff. Projects determined minor in nature may be waived of this process by the Director of Community Development.

43. Chapter 30, Article II. Division 14, Variance, Subdivision I. Administrative Variance, Section 30-207. "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-207 – Reserved.

44. Chapter 30, Article II. Division 14, Subdivision II. Variance, Major, Section 30-214 "Authority" is hereby restated and amended as follows:

Sec. 30-214. - Authority.

The Planning Commission is authorized to approve or deny applications for variance, major, ~~upon review of the Development Advisory Board comments~~, and to impose conditions upon such approval.

45. Chapter 30, Article II. Division 16. – Park Review, Section 30-231 – Authority, is hereby restated and amended as follows:

Sec. 30-231. - Authority.

The Parks, Community, and Human Services Commission (PCHSC) is authorized to review and provide comments for parks. The park review shall

be presented to the PCHSC at a regular meeting. ~~during the Development Advisory Board review.~~

The Planning Commission is authorized to approve or deny applications for park review upon review of the ~~Development Advisory Board and~~ PCHSC, and to impose conditions upon such approval.

46. Chapter 30, Article II, Division 16. Park Review, Section 30-232 “Pre-application meeting” is hereby restated and amended as follows:

Sec. 30-232. - Pre-application meeting.

Prior to the filing of an application for a park review, the applicant or the applicant's representative shall ~~file~~ apply for a pre-application review meeting ~~application~~ in order to meet with the Director of Planning Community Development and the ~~Development Advisory Board~~ prior to submitted the formal application.

47. Chapter 30, Article II. Division 16. – Park Review, Section 30-234. – Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-234 – Reserved.

48. Chapter 30, Article II. Division 17. - California Redemption Value (CRV) Recycling Collection Facility, Section 30-241. – Authority, is hereby restated and amended as follows:

Sec. 30-241. - Authority.

The Director of ~~Community Development~~ Planning or designee is authorized to approve or deny California Redemption Value (CRV) Recycling Collection Facility through the process of minor use permit review applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval. Conditions may include, but shall not be limited to, requirements for installation and maintenance of landscaping and erosion control measures; requirements for vehicular ingress, egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion.

49. Chapter 30, Article II. Division 17. - California Redemption Value (CRV) Recycling Collection Facility, Section 30-246. – Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-246 – Reserved.

50. Chapter 30, Article II. – Administrative Procedures – Division 18. – Temporary Use, Section 30-354. – Authority, is hereby restated and amended as follows:

Sec. 30-254. - Authority.

The Director of ~~Community Development~~ Planning or designee is authorized to approve or deny temporary use applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval. Conditions may include, but shall not be limited to, requirements for buffers and/or barriers; requirements for vehicular ingress, egress, and on-site traffic circulation; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion.

51. Chapter 30, Article II. Division 21. – Mapping, Tentative Parcel Map, Tentative Tract Map, and Lot Line Adjustment, Subdivision I – Tentative Parcel Map, Section 3-280 "Authority" is hereby restated and amended as follows:

Sec. 30-280. - Authority.

The Director of ~~Community Development~~ Planning or designee is authorized to approve or deny tentative parcel map applications, ~~upon review of the Development Advisory Board comments,~~ and to impose reasonable conditions upon such approval.

52. Chapter 30, Article II, Division 21, Subdivision I – Tentative Parcel Map, Section 30-281 "Pre-application meeting" is hereby restated and amended as follows:

Sec. 30-281. - Pre-application meeting.

Prior to the filing of an application for a tentative parcel map application the applicant or the applicant's representative shall apply for a pre-application ~~meeting application~~ review with City Staff. ~~The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application.~~

53. Chapter 30, Article II, Division 21, Subdivision I – Tentative Parcel Map, Section 30-283 "Development Advisory Board (DAB) review" is hereby deleted and amended to read as follows:

Sec. 30-283 – Reserved.

54. Chapter 30, Article II, Division 21. Subdivision II – Tentative Tract Map, Section 3-290. "Authority" is hereby restated and amended as follows:

Sec. 30-290. - Authority.

The Planning Commission is authorized to approve or deny applications for design review, ~~upon review of the Development Advisory Board comments,~~ and to impose conditions upon such approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress, egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion.

55. Chapter 30, Article II. Division 212. Subdivision II – Tentative Tract Map, Section 3-292, “Development Advisory Board (DAB) review” is hereby deleted and amended to read as follows:

Sec. 30-292 – Reserved.

56. Chapter 30, Article II. Division 22. – Time Extension, Mapping and Project, Subdivision II – Time Extension - Tentative Tract Maps, Section 3-310. “Authority”, is hereby restated and amended as follows:

Sec. 30-310. - Authority.

The Planning Commission is authorized to approve or deny applications for time extension for tentative tract maps ~~upon review of the Development Advisory Board comments,~~ and to impose conditions upon such approval.

57. Chapter 30, Article II, Division 24 Planned Unit Development (PUD), Section 30-328 “Pre-application meeting” is hereby restated and amended as follows:

Sec. 30-328. - Pre-application meeting.

Prior to the filing of an application for a planned unit development, the applicant or the applicant's representative shall apply for a pre-application review with City staff. ~~meeting application. The pre-application meeting is presented to the Development Advisory Board for recommendation for the project. The recommendation should be incorporated into the project prior to filing the formal application~~

58. Chapter 30, Article II. Division 24. – Planned Unit Development (PUD), Section 30-330. – Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-330 – Reserved.

59. Chapter 30, Article II. Division 25. – Density Bonus, Section 30-343, Development Advisory Board (DAB) review is hereby deleted and amended to read as follows:

Sec. 30-343 – Reserved.

60. Chapter 30, Article II, Division 27 Non-Conforming Structures, Section 30-353, “Special exemption to permit incremental improvements to nonconforming buildings, structures, and sites with administrative site plan approval” is hereby restated, renumbered, and amended as follows:

Sec. 30-353. - Special exemption to permit incremental improvements to nonconforming buildings, structures, and sites with administrative site plan approval.

- (a) Notwithstanding any other provisions of Division 10 of this article herein to the contrary, the Director of ~~Community Development~~ Planning may permit the following limited improvements to be made to an existing nonconforming building, structure or site without the requirement that the building, structure and/or site be improved to current Development Code standards:
 - (1) Additions to existing commercial and/or industrial buildings or structures that do not exceed ten percent of the total square footage of the existing building or structure, provided said additions meet the fire protection requirements of Chapter 11 of the City Code;
 - (2) Paving, repaving or realignment of parking lots and areas, provided that the number of parking spaces is not reduced to less than currently existing and provided that all applicable drainage, storm water (NPDES), and similar requirements are met;
 - (3) Alteration of the exterior of an existing building or structure;
 - (4) Installation of new landscaping or alteration of existing landscaping, provided that the amount of landscaping is not reduced to less than currently existing unless the Director of ~~Community Development~~ Planning further finds that other improvements approved under this section require a reduction in the landscaping. Any allowed reduction in landscaping shall be the minimum required to permit the improvements to be constructed.
- (b) Any person seeking a special exemption under this section shall submit a completed administrative site plan application to the ~~Community Development~~ Planning Department in a manner prescribed by the Director of ~~Community Development~~ Planning and shall pay any applicable fees.
- ~~(c) Applications under this section shall be processed as prescribed in Division 3 of Article III of Chapter 30 of this Code (administrative site plan review), except for the following:~~

- ~~(1) At the option of the Director of Community Development, the application may (but is not required to) be reviewed by the Development Advisory Board prior to a decision by the Director of Community Development;~~
- ~~(2) Notice required by Division 4 of this article shall be provided, however, it shall be sent ten calendar days prior to the decision by the Director of Community Development.~~
- (c) Notwithstanding Division 10 of this article herein, the Director of Community Development Planning shall make the following findings before granting approval of the exemption and the administrative site plan application:
 - (1) All of the existing building(s), structures(s) and uses on the site are pre-existing and legal nonconforming, and are not illegal or unpermitted;
 - (2) The improvement(s) subject to the exemption support(s) a pre-existing legal nonconforming building, structure and/or use already on the site;
 - (3) The exemption will provide an incremental improvement to the building, structure or use on the site in furtherance of the requirements of Chapter 30 of this Code;
 - (4) The improvement(s) subject to the exemption will not, physically, legally, or otherwise, preclude the building(s), structure(s) or the site to come into compliance with current Development Code standards at a future date;
 - (5) Granting the exemption will not substantially expand or intensify the existing or anticipated use of the building(s) and/or the site;
 - (6) Granting the exemption will not be contrary to the goals of the City's general plan or any applicable specific plan; and
 - (7) Granting the exemption will not otherwise be deleterious to the public health, safety and welfare.
- (d) The Director of Community Development Planning is authorized to impose such reasonable conditions upon an exemption in order to protect the health, safety and welfare of the surrounding area.
- (e) Except as expressly set forth herein, the benefits of this section shall not abrogate, extend, expand or otherwise alter the provisions of this Division 22 and shall not eliminate or extend pre-existing legal nonconforming rights, or create them where they do not otherwise exist.
- (f) The benefits of this section shall apply only to complete applications, as provided for in subsection (b), which have been submitted to the Community Development Planning Department within a period of two years following the effective date of this section. Any exemptions requested after said two-year period must be sought pursuant to Section 30-85.

61. Chapter 30, Article IX. Division 5. – Auto Center Overlay District, Section 30-643. – Minimum development standards, is hereby restated, renumbered, and amended as follows:

Sec. 30-643. - Minimum development standards.

The minimum site development standards listed in this section shall only apply to the specific planning area within the overlay district.

(1) Planning area 1—Auto center development standards.

a. Building and parking setbacks.

1. All buildings and parking, except for vehicle display pads and allowed monument signs, shall be setback from all street property lines as follows:

Sierra Avenue: 25 Feet

Citrus Avenue: 20 Feet

South Highland Avenue: 15 Feet

Secondary Streets: 10 Feet

Collector Streets: 10 Feet

Local Streets: 10 Feet

2. Vehicle display pads shall have no required setback and shall be allowed to encroach into the landscape setback. Adequate site distance must be demonstrated at street intersections and driveway entrances for each vehicle display pad. Display pads shall not exceed 14 inches in height as measured from the sidewalk grade.

3. Monument signs are required to be set back a minimum of five feet from the street property line.

b. Building height.

1. Buildings and other structures shall not exceed a maximum of 60 feet in height as measured from the top of curb located adjacent to the street property line to the highest building ridge.

c. Lot coverage.

1. No more than 50 percent of the net lot area may be covered with buildings or other structures.

d. Off-street parking and circulation.

1.Required off-street parking spaces for vehicle dealerships shall be provided at the following ratios:

Show Room: One space per 300 square feet.

Service Area: One space per 300 square feet.

Outdoor Display: One space per 2,500 square feet.

Employees: One space per employee on the maximum shift.

Note: Service department parking/stacking is counted and included as required parking spaces.

2. Except for vehicle display pads, all parking spaces shall be a minimum of nine feet wide and 19 feet deep.

3. Drive aisle widths are required to be 26 feet wide, unless otherwise required by the San Bernardino County Fire Department.

4.Driveway approaches on South Highland Avenue are required to be 55 feet deep to allow for adequate stacking distance if entry gates are closed. Driveways must demonstrate adequate turning movement widths for car carrier trucks, per the City of Fontana Traffic Engineer.

e. Landscaping.

1. All vehicle dealerships shall have a minimum of 15 percent landscaping of the net project site (minus the dealership building footprint). A maximum of seven percent of the required landscape area can be provided as decorative hardscape, including vehicle display pads and driveway approaches.

2.Required setback areas shall be landscaped with trees, shrubs, plants, grasses and hardscape as set forth within the overlay district landscape design guidelines plant palette.

3.There shall be a five-foot landscape setback between abutting auto dealership display areas.

f. Lighting.

1.On-site lighting plans shall be submitted showing the design, intensity, layout and exact fixture mounting. ~~Lighting~~

~~plans shall be reviewed and approved through the required Development Advisory Board (DAB) process.~~

2.Lighting plans shall be consistent with the lighting design criteria and guidelines set forth within this overlay district.

3.Shielded fixtures shall direct all lighting downward, and shall illuminate areas used for parking and driveways.

4.All exterior areas shall have light standards no taller than 20 feet in height.

5.All lighting fixtures shall be properly shielded to prevent off-site glare. Spot fixtures shall only be downward directed, except at strategic areas such as monument signs and other landscape locations along the project's perimeter.

6.Strings of incandescent fixtures are not allowed in any exterior commercial area.

7.Strings of incandescent fixtures are not allowed in any exterior dealership area.

g. *Walls, fences and screening.* Walls and fences constructed on an interior lot line, at the rear of the required landscape setback area, or along the 210 Freeway right-of-way shall comply with the development standards set forth herein.

1.Walls shall not exceed eight feet in height, except that within the required building and parking landscaped setback, vehicle pad display areas, walls may not exceed three feet in height.

2.All perimeter walls and fences shall be designed to be consistent with the design guidelines set forth herein.

3.Chain link fencing and all types of barbed wire are prohibited, except that chain link fencing is allowed during construction for security purposes.

4.The Freeway edge treatment shall consist of eight-foot tall pilasters at 30 feet on center with tubular or wrought iron fencing between pilasters. These pilasters shall be consistent with the design as set forth within the auto center design guidelines.

5.Pilasters located within 90 feet of South Highland Avenue shall also be eight-foot tall at 30 feet on center with tubular or wrought iron fencing between pilasters. These pilasters will

also be covered with flagstone that matches the monument sign flagstone required along South Highland Avenue, consistent with the design as set forth within the auto center design guidelines.

6. Solid eight-foot tall block walls located within the interior of auto dealerships are permitted, provided they are not visible from the public rights-of-way. Security walls that are visible from public rights-of-way shall consist of solid walls limited to three feet in height with pilasters on top that are limited to five feet in height (eight feet total height) and tubular or wrought iron fencing between pilasters.

7. All service, trash and employee parking areas shall be screened from view from all public streets by walls and approved fencing. No storage areas shall be visible from any public right-of-way, including the 210 Freeway.

8. Roof mounted mechanical equipment shall be screened and not be visible from any public rights-of-way, including the 210 Freeway. Roof mounted equipment screening techniques shall involve an integrated architectural design element which is compatible with the architectural design of the dealership building.

9. Solid block walls eight feet tall are required on the property line adjacent to A.B. Miller High School and Warren Ruble Middle School.

h. Sound attenuation.

1. All air compressor exhaust stacks shall contain noise-muffling devices.

2. Exterior loud speakers shall not be mounted higher than ten feet above finished grade, and shall be oriented toward the interior of each dealership.

(2) Planning area 2—Auto center supporting uses.

a. Building setbacks.

1. All buildings and parking areas, except for allowed monument signs, shall be setback from all street property lines as follows:

Sierra Avenue: 25 Feet

South Highland Avenue: 20 Feet

Mango Avenue: 15 Feet

210 Freeway Right-of-way: 5 Feet

2. Monument signs are required to be set back a minimum of five feet from the street property line, and must comply with site distance traffic standards at all street corners and driveway entrances.

b. Building height.

1. Buildings and other structures shall not exceed a maximum of 60 feet as measured from the top of curb located adjacent to the street property line to the highest building ridge.

c. Lot coverage:

1. No more than 50 percent of the net lot area may be covered with buildings or other structures.

d. Off-street parking and circulation.

1. Required off-street parking spaces for retail shall be provided at the ratio set forth in Chapter 30 of the Fontana Municipal Code.

2. All parking spaces shall be a minimum of nine feet wide and 19 feet deep.

3. Drive aisle widths are required to be 26 feet wide unless otherwise required by the San Bernardino County Fire Department.

e. Landscaping.

1. All retail commercial uses shall have a minimum of 15 percent landscaping of the net project site (minus the building footprint).

2. Required setback areas shall be landscaped with trees, shrubs, plants, grasses and hardscape as set forth within the overlay district landscape design guidelines plant palette.

3. For projects that are adjacent to the 210 Freeway right-of-way, there shall be a minimum five-foot wide landscape strip planted with trees and shrubs.

4. Solid block walls adjacent to the 210 Freeway right-of-way are prohibited. The Freeway edge treatment shall consist of eight-foot tall pilasters at 30 feet on center with tubular or wrought iron fencing between pilasters. These pilasters shall be consistent with the design as set forth within the auto center design guidelines.

f. *Lighting.*

1. On-site lighting plans shall be submitted showing the design, intensity, layout and exact fixture mounting. Lighting plans shall be reviewed and approved through the required Development Advisory Board (DAB) review process.

2. Lighting plans shall be consistent with the lighting design criteria and guidelines set forth within this overlay district.

3. Shielded fixtures shall direct all lighting downward, and shall illuminate areas used for parking and driveways.

4. All exterior areas shall have light standards no taller than 20 feet in height.

5. All lighting fixtures shall be properly shielded to prevent off-site glare. Spot fixtures shall only be downward directed, except at strategic areas such as monument signs and other landscape locations along the project's perimeter.

6. Strings of incandescent fixtures are not allowed in any exterior commercial area.

g. *Walls, fences and screening.* Walls and fences constructed on an interior lot line, at the rear of the required landscape setback area, or along the 210 Freeway right-of-way shall be in keeping with the development standards set forth herein.

1. Walls shall not exceed eight feet in height, except that within the required building and parking landscaped setback, walls may not exceed three feet in height.

2. All walls shall be constructed of split face or masonry material that is compatible with the building design.

3. Chain link fencing and all types of barbed wire are prohibited, except that chain link fencing is allowed during construction for security purposes.

4. All service and trash enclosure areas shall be screened from view from all public streets by walls and approved fencing, wherever feasible. No storage areas shall be visible from any public right-of-way, including the 210 Freeway.

5. Solid block walls are prohibited. Wall edge treatments shall consist of eight-foot tall pilasters at 30 feet on center with tubular or wrought iron fencing between pilasters. These pilasters shall be consistent with the design as set forth within the auto center design guidelines.

6. Roof mounted mechanical equipment shall be screened and not be visible from any public rights-of-way, including the 210 Freeway. Roof mounted equipment screening techniques shall involve an integrated architectural design element which is compatible with the architectural design of the commercial building.

h. Sound attenuation.

1. A drive-through lane is not permitted adjacent to any parcel of land that is zoned for residential use.

(3) Planning areas 3 and 4.

a. All minimum site development standards listed in planning areas 1 and 2 apply to planning areas 3 and 4.

62. Chapter 30, Article XII. Division 12. – Administration and Enforcement, Section 30-781. – Sign variances, is hereby restated, renumbered, and amended as follows:

Sec. 30-781. - Sign variances.

(a) *Purpose.* The purpose of a sign variance is to provide for deviations from the literal provisions of this article in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual sign under consideration, and to grant such variances only when it is demonstrated that such actions align with the applicability and the findings of this section.

(b) *Authority.* The Planning Commission is authorized to approve or deny sign variance applications.

(c) *Application.*

(1) Applications for a sign variance shall be filed with the Planning Division on forms, and accompanied by data, information, and fees as required by the ~~Community Development~~ Planning Department. No application shall be

considered by the Planning Commission until the application is determined to be complete and all required fees have been paid to the City.

(2) At a minimum, the application shall include:

- a. A statement that the applicant is the owner of the subject property or an agent thereof;
- b. The legal description of the property involved, the proposed use, and site plans;
- c. A reference to the specific provisions of this article that are applicable to the requested sign variance; and
- d. The specific use and standard for which the sign variance is being requested shall be described in detail.

~~(d) *Development Advisory Board Review.* All applications for sign variances shall be reviewed by the Development Advisory Board to provide recommendations for the sign. The recommendations should be incorporated into the sign prior to moving forward to the Planning Commission.~~

(d) *Limitation on variances.* In no case shall any sign variance be granted that would result in a sign that exceeds the height, size, or setback provisions of this article by 25 percent or that would increase the number of signs permitted by this article by more than 25 percent.

(e) *Findings.* The following findings are required to be made by the Planning Commission for approval of a sign variance application, with or without conditions:

- (1) Variances from the terms of this article shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the article deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits.
- (2) The characteristics that make compliance with the requirements of this article difficult must be related to the premises for which the sign variance is sought, not some other location;
- (3) The characteristics that make compliance with the requirements of this article difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- (4) The proposed sign variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or

endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

- (f) *Consistency.* Any sign variance granted shall be subject to such conditions as will ensure that the adjustment thereby authorized shall not constitute a grant of a special privilege inconsistent with the limitations upon other properties.
- (g) *Noticing.* Notice of hearings for sign variances shall be as set forth in Chapter 30, Article II, Division 4.
- (h) *Hearing.* Upon receipt of a complete application for a sign variance, a time and place for the hearing before the Planning Commission shall be set.
- (i) *Appeal.* The decision of the Planning Commission shall be final unless an appeal is filed. An appeal could be made as set forth in Chapter 30, Article II, Division 5.
- (j) *Time limitations.* Each sign variance granted under the provisions of this article shall become null and void two years after the date of the action approving the sign variance unless:
 - (1) The construction authorized by the sign variance or permit has been commenced within two years after the granting of the sign variance and diligently advanced to completion;
 - (2) The decision approving a sign variance contains in its findings and conditions specific authority for extending the time limit defined; or
 - (3) The Director of ~~Community Development~~ Planning finds that circumstances beyond the control of the applicant have caused delays which do not permit compliance with the time limits established.

63. Chapter 30, Article XIII. Division 2. – Permit and Application Procedures, Section 30-941 “Processing and hearing procedure”, is hereby restated, renumbered, and amended as follows:

Sec. 30-941. - Processing and hearing procedure.

Upon submittal of a complete application for resource extraction permit and/or resource reclamation plan and filing of all environmental documents and all documents required by the Planning Manager, consideration of the resource extraction permit or resource reclamation plan for the proposed surface mining operation or exempt activity shall be completed pursuant to the following:

- (1) The Planning Division shall, within 30 days of receipt of such applications, certify the application requests with regard to completeness in accordance with California Government Code § 65920 et seq. (Permit Streamlining Act). The Planning Division shall process the application(s) in accordance with all requirements of the California Environmental

Quality Act (Public Resources Code § 21000 et seq.) and the City's environmental review guidelines.

- (2) Within 30 days of acceptance of an application for resource extraction permit and/or resource reclamation plan as complete, the Planning Division shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the flood insurance rate maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Division shall also notify the State Department of Transportation that the application(s) have been received.

~~(3) Development Advisory Board. Upon deeming the application complete and completing the environmental review procedures, the Planning Division shall forward the application(s) to the Development Advisory Board (DAB). The DAB shall review the plot plan, landscape plans, elevations and any environmental review documents for the intended operation. Upon completion of the review, the DAB shall forward its recommendation and recommended approval conditions to the Planning Commission.~~

- (3) Planning Commission review. The Planning Commission shall hold at least one noticed public hearing on the application for resource extraction permit and/or resource reclamation plan. The Planning Division shall prepare a staff report with recommendations for consideration by the Planning Commission. The staff report shall include, but not be limited to, recommendations concerning the following:

- a. A statement of the recommended intensity of use;
- b. Acceptable accessory uses;
- c. The suitability of the extraction and reclamation proposals; and
- d. Suggested conditions for approval to ensure that the resource extraction use and related accessory uses may be conducted and reclaimed without creating a public nuisance or otherwise adversely affecting the public welfare.

The staff report may recommend denial of the resource extraction permit and/or resource reclamation plan applications if it is determined that the intent of this article cannot be met by the proposed applications.

- (4) Planning Commission approvals.

- a. The Planning Commission shall take action approving, conditionally approving or denying the resource extraction permit. If a resource extraction permit is being processed concurrently with the resource reclamation plan, the Planning Commission may simultaneously also

conceptually approve the resource extraction permit. However, the Planning Commission may defer action on the resource extraction permit until taking final action on the resource reclamation plan and financial assurances.

- b. Prior to final approval of a resource reclamation plan, approval of financial assurances (as provided in this article), or any amendments to a resource reclamation plan or existing financial assurances, the Planning Commission shall:
 1. Certify to the State Department of Conservation that the resource reclamation plan and/or financial assurances comply with the applicable requirements of state law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the resource reclamation plan and any financial assurances before submittal to the State Department of Conservation.
 2. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the resource extraction permit with a condition that the planning division shall not issue any required subsidiary permits for mining operations, including grading and/or building permits, until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and financial assurances.
 3. Pursuant to Public Resources Code § 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the reclamation plan and 45 days to review and comment on the financial assurances. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the state for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the state's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.
- c. Once comments are received by the Department of Conservation, and within 30 days of receipt of such comments, the Planning Commission

shall then take action to approve, conditionally approve, or deny the resource extraction permit and/or reclamation plan, and to approve the financial assurances pursuant to Public Resources Code § 2770(d).

- d. The decisions of the Planning Commission shall become final unless appealed to the City Council within the time period indicated in Article II, Division 5 of the Fontana Municipal Code.
- e. The Planning Division shall forward a copy of each approved Resource extraction permit and/or approved reclamation plan, and a copy of the approved financial assurance to the State Department of Conservation. By July 1st of each year, the Planning Division shall submit to the State Department of Conservation for each active or idle mining operation a copy of any resource extraction permit or reclamation plan amendments, as applicable, or a statement that there have been no changes or amendments during the previous year.

64. Chapter 30, Article III, Division 10. – Public Open Spaces Standards, Sections 30.399 to 30.404 are hereby restated, renumbered, and amended as follows:

DIVISION 10. COMMON AND PUBLIC OPEN SPACE STANDARDS

Sec. 30-399. Purpose.

The purpose of this section is to provide common open spaces and a catalog of pre-approved public open space types that are appropriate to use within walkable urban environments.

Sec. 30-400. Applicability.

- (a) This section describes the guidelines for the development of common and public open spaces throughout the Form-Based Code areas.
- (b) The standards in this section shall apply to all proposed development within the Form-Based Code districts and shall be considered in combination with the standards for the applicable district.
- (c) Additional public open spaces can be integrated into this section as they are approved by the City of Fontana.

Sec. 30-401. Design objectives.

Common open spaces and public open spaces play an important role in place-making. Their standards must be considered alongside building form, building types, frontage types, and thoroughfares in creating urban

environments. The diverse palette of common open spaces, parks and other publicly accessible open spaces are assigned to one or more downtown zones.

Sec. 30-402. Common open space and public open space required.

Each application that involves at least two acres shall be required to provide a minimum of five percent of the project area as either common open space or public open space. The required open space shall be designed in compliance with the applicable requirements from Exhibit 678404.A.—Public Open Space Types.

For development projects that are two acres or more in size that propose only commercial development (no residential uses) or civic development, the Planning Commission shall have the authority to reduce or eliminate the requirements for open space size, type, and location if the following findings are made:

- (1) The proposed commercial use(s) is incompatible with a large open space area.
- (2) The Police Department recommends the elimination or reduction of the open space requirement.
- (3) Eliminating or reducing the open space requirement promotes public health and safety.

Subdividing or phasing the project to separate commercial and residential uses or to reduce lot size to less than two acres shall not eliminate the open space requirement.

















Sec. 30-403. Regulation.

- (a) Common open spaces shall be designed within private development projects for patrons of commercial development and residential communities with amenities as required in 30-404 below.
- (ab) Public open spaces shall be designed as one of the public open space types defined in Exhibit 30-404.A.
- (bc) Public open spaces shall include amenities such as seating, lighting, and landscaping.
- (ed) Public open spaces shall be built within the development area by developers as development occurs.
- (de) At the discretion of the ~~Community Development~~ Planning Director, required open space may be constructed off-site and/or as part of a larger public open space that will be provided by the City or other private developments. Sec. 30-404. General requirements.
- (f) Common open spaces shall include an amenity such as a tot lot, outdoor sports recreation area, bar-b-que with picnic tables, or equivalent. This requirement can include paseos connecting the amenity to the rest of the site.
- (fg) All public open spaces shall abut public right-of-way or be otherwise connected to public sidewalks and shall be open to the public 24 hours per day. At the discretion of the ~~Community Development~~ Planning Director, public access to a public open space may be restricted after dark.
- (gh) All public open spaces shall be visible from surrounding streets and masses of shrubs around edges shall be avoided.

Sec. 30-404. General requirements.

- (a) All public open spaces shall abut public right-of-way or be otherwise connected to public sidewalks and shall be open to the public 24 hours per day. At the discretion of the Community Development Director, public access to a public open space may be restricted after dark.
- (b) All public open spaces shall be visible from surrounding streets and masses of shrubs around edges shall be avoided.

Exhibit 404.A.—Public Open Space Types

Plaza	Pocket Park	Playground	Community Garden
			
			
			
			
<p>Plazas are open spaces available for civic purposes and commercial activities. Building frontages should define these spaces. Plazas are typically hardscaped.</p> <p>½ acre to 2½ acres</p> <p>2 streets</p> <p>Passive recreation, accessory structure, drinking fountains, and paths.</p>	<p>An open space available for informal activities in close proximity to neighborhood residences.</p> <p>4,000 sf to ½ acre</p> <p>1 street</p> <p>Passive recreation, accessory structure, drinking fountains, and paths.</p>	<p>An open space designed for the recreation of children and interspersed in residential areas. May be included in other open spaces.</p> <p>No min. or max. size</p> <p>1 street</p> <p>Accessory structures, drinking fountains, and paths.</p>	<p>An open space designed as a grouping of plots for nearby residents for small-scale cultivation. May be included within other open spaces.</p> <p>No min. or max. size</p> <p>1 street</p> <p>Accessory structures, drinking fountains, and paths.</p>

65. Chapter 30, Article V, Division 4, Section 30-453 is hereby amended to replace “Medical marijuana dispensaries in Table No. 30-453 as follows:

Table No. 30-453 Uses Permitted Within Mixed Use Development Projects			
C. Business and Professional Offices			R-4
R-5			
Medical — marijuana — dispensaries	Commercial	Retail	Cannabis
<u>Businesses</u>			

66. Chapter 30, Article VI, Division 3, Section 30-489 “Uses Permitted” is hereby amended to restate and amend Table No. 30-489 as follows:

Table No. 30-489 Allowed Uses within Commercial Zoning Districts			
Use	C-1	C-2	RMU
Retail Sales			
Adult Businesses	P*	P*	—
Antique Shop	P	P	P
Automobile Sales Agency with or without Incidental Repair and Sales Display Area	—	C	C
Automobile Supply Store (no machine shop)	P	P	P
Bakery Goods Store	P	P	P
Bar, Cocktail Lounge	C	C	C
Bicycle Shop	P	P	P
Boat Sales with Incidental Repair and Sales Display Area	—	C	C
Book Store	P	P	P
Building Materials, Retail Sale of (if contained within a completely enclosed building)	—	P	P
Building Materials with Outdoor Storage	—	P*	P*
Blueprinting Establishment	—	P	P
Commercial Cannabis Retailer, Storefront Business (with City Permit)	P*	P*	—
Caterer	P	P	P
Clothing Store	P	P	P
Computer Store	P	P	P
Convenience Store	P	P	P
Cyber Cafés	C	C	C
Department Store	—	P	P
Discount Store	P	P	P
Drugstore	P	P	P

Electrical Supply Store	P	P	P
Feed Store	C	M	—
Florist Shop	P	P	P
Furniture Store	P	P	P
Garden Furniture and Supplies Store	P*	P*	P*
Glass or Mirror Store	P	P	P
Grocery, Fruit, Vegetable, Meat, Fish, Poultry, or Delicatessen Store,	P	P	C
Hardware Store	P*	P*	P*
Hobby Supplies Store	P	P	P
Home Furnishing Store	P	P	P
Household Appliance Store	P	P	P
Ice Cream Store	P	P	P
Ice Storage Locker (if not more than five-ton capacity)	P	P	P
Interior Decorating Shop	P	P	P
Jewelry and Coin Store	P	P	P
Liquor Store	C	C	C
Micro-Brewery	—	C	C
Newsstand	P	P	P
Novelties Store	P	P	P
Nursery, Plant (includes statuary sales)	P*	P*	P*
Paint and Wallpaper Shop	P	P	P
Pawn Shop	—	C	C
Pet Boarding	—	M	—
Pet Shop	P	P	P
Plumbing Supply Store	—	P	P
Radio, Television, and Small Electrical Appliance Shop (including repair when incidental to retail sales)	P	P	P
Restaurant and Café, Excluding Those Having Dancing and/or Floorshows. Alcoholic Beverages are not Permitted.	P*	P*	P*
Restaurant and Café with Entertainment and/or Dancing. Alcoholic Beverages Permitted.	C*	C*	C*
Restaurant and Café Without Entertainment and/or Dancing. Alcoholic Beverages Permitted. (See Section 30-492 For Alcoholic Beverage Sales)	C	C	C
Restaurant, Drive-Thru and Take Out	P*	P*	P*
Secondhand Store	—	P	P
Shoe Store	P	P	P
Smoke/Tobacco Shop and Vape Shop	C	C	C
Sporting Goods Store	P	P	P
Swap Meet (Indoor/outdoor)	—	—	—
Tattoo Establishments	P*	P*	P*

Trailer and Mobile Home Sales and Rental	—	P*	C
Wholesale Auto Sales (requires one stall)	C	C	—
Warehousing Sales, Retail	C	P*	P*
Warehousing Sales, Wholesale	—	C	P*
Business and Professional Offices	C-1	C-2	RMU
Administrative and Professional Offices Involving no Retail Trade	P	P	P
Art Gallery	P	P	P
Financial Institution	P	P	P
Clinic, Medical or Dental, Acupuncture	P	P	P
Convention Centers	—	—	P
Government Offices	P	P	P
Medical Laboratory	—	P	P
Optician	P	P	P
Pharmacy	P	P	P
Radio/Television Studio (with transmitter)	—	C	C
Studio (without transmitter)	P	P	P
Studios for Professional Work or Teaching of Any Form Of Fine Art	P	P	P
Service Establishments	C-1	C-2	RMU
Ambulance Service	P	P	P
Animal Hospital	M	P	C
Animal Hospital (w/ Boarding)		M	—
Assembly/Meeting Hall For, Private Clubs, Religious Services, or Similar Uses	C	C	C
Automobile Fueling Station	C	C	C
Automobile and Truck Rental, Two-Ton, Single Unit Maximum	—	C	C
Automobile/Vehicle Body and Fender Repair Shop	—	C	C
Automobile/Vehicle Repair	C	C	C
Automotive Custom Repair (includes lowering and lifting)	C	C	C
Automotive Stereo, Alarm and Upholstery Installation	C	M	M
Automobile Wash,	—	M	M
Barber Shop or Beauty Parlor	P	P	P
Chemical substance abuse facility	C	C	C
Cleaners	P*	P*	P*
Clothing and Costume Rental Establishment	P	P	P
Community Care Facility	C	C	C
Community Center	C	C	C
Construction Trailer (Temporary Use Permit)	P*	P*	P*
Convalescent Hospital	M	M	C
Copying, Packing and Mailing Services	P	P	P
Day Care—Commercial	M	M	M
Day Care—Commercial (24 hour)	—	C	C

Depot—Bus	—	P*	P*
Depot—Railway, Park-and-Ride	—	P	P
Dressmaker or Millinery Shop	P	P	P
Equipment Rental	—	P*	P*
Fortune-Telling	P	P	P
Hospitals	—	M	M
Hotels	—	C	C
Laundromat, Self Service	P	P	P
Locksmith	P	P	P
Machine Shop	—	C	C
Masseur or Masseuse, Day Spa, Acupressure	—	C	C
Self-Storage Facility	—	C	C
Mortuaries	—	C	C
Library	P	P	P
Museums	P	P	P
Motel	—	C	C
Music and Vocal Instruction	P	P	P
Nightclub	—	C	C
Nursing Home	M	M	C
Parks	P	P	P
Photographer	P	P	P
Pick-Up Truck Rated Over One Ton (carrying weight), Commercial Truck or Van, or Trailer Rental	—	C	C
Picture Framing Store	P	P	P
Post office	M	M	M
Printer, Blueprint Shop	—	P	P
Private Schools	C	C	C
Public Utility Structures and Facilities	M	M	M
Publishing Establishments	—	P	P
Repair Shop for Household Appliances	P	P	P
Schools Such as Business Colleges, Music Conservatories, Dancing Schools, and Other Schools That Offer Training In Non-Industrial Professions	P	P	P
Stenographic Services	P	P	P
Swimming Pool, Commercial	P	P	P
Sign Shop in Enclosed Structure	—	P	P
Tailor	P	P	P
Telephone Answering Service or Exchange	P	P	P
Ticket Agency, Travel Bureau	P	P	P
Tire Shop	—	C	C
Truck Repair Service	—	—	—

Truck Storage Yard	—	—	—
Upholstery Shop	—	P	P
Wedding Chapel	P	P	P
Amusement Establishments	C-1	C-2	RMU
Amusement Enterprise for Children Including Pony Rides (No Stables), Merry-Go-Round, and The Like When Incidental To A Permitted Use	P	P	P
Amusement Park	—	C	C
Arcades—Pinball, Video, and the Like	—	C	C
Archery Range	—	C	C
Baseball; Batting Range	—	C	C
Bowling Alley	C	C	C
Boxing Arena	—	C	C
Dance Hall	—	C	C
Entertainment Centers	C	C	C
Golf, Driving Range, Miniature, Pitch and Putt	—	C	C
Gymnasiums, Health Spas, or Physical Culture Establishments Under 4,000 Square Feet in Floor Area	P	P	P
Gymnasiums, Health Spas, or Physical Culture Establishments Over 4,000 Square Feet in Floor Area	C	C	C
Pool Hall, Billiard Center	C	C	C
Skating Rink, Roller or Ice	C	C	C
Smoking Lounge, Hookah Lounge, Vapor Lounge, E-Lounge (allowed only as a secondary use to a full-service restaurant)	C	C	C
Theater, Indoor	C	C	C
Indoor Playground/Recreation	P	P	P
Residential Uses	C-1	C-2	RMU
Senior Housing	M	M	M
Multiple-Family Dwellings with an Area Plan			C
Other Uses	C-1	C-2	RMU
Animal Kennel	—	C	C
Animals, Small—Keeping and Raising	P*	P*	P*
Antenna, Transmitting	C	C	C
Cemetery and Related Uses	—	M	C
Construction Trailer	P*	P*	P*
Home Occupation	P*	P*	P*
Homeless Shelters	—	—	—
Emergency Shelter Subject to the activation of an Emergency Operation Center	P	P	P
Metal Storage Containers (temporary storage only with a temporary use permit)	P*	P*	P*

Museum and Art Galleries	—	M	M
Parking Lots (not related to use on same property)	—	P	P
Parking Structures	—	P	P
Research and Development	—	P	P

67. Chapter 30 is hereby amended to add Article XV “No Net Loss Program” as follows:

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 Section 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.

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.

Director of Planning. The Director of Planning of the City of Fontana.

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:

A. 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.

B. 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)

C. 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.

- i. 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.
- ii. In no case shall the number of No Net Loss/Density Bonus Units available in the Unit Bank exceed 2,200 units.

D. 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.

E. 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.

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:

- a. 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:
 - b. 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.

- c. A calculation of the density bonus allowed pursuant to this division.
- d. 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.
- e. 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.

A. The terms of the draft density bonus/transfer agreement (Agreement) shall be reviewed and revised as appropriate by the Director of Planning and the City Attorney for final approval.

B. At a minimum, the Agreement shall include the following:

- 1. 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.

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.

CHAPTER 33 – CANNABIS BUSINESS AND ACTIVITIES

1. Chapter 33, Section 30-7 “Maximum Number of Commercial Cannabis Businesses Authorized and Designated Locations; Application Process”, is hereby restated and amended as follows:

Sec. 33.-7– Maximum Number of Commercial Cannabis Businesses Authorized and Designated Locations; Application Process.

1. The maximum number of Commercial Cannabis Permits that may be issued in the City is three (3). One may be issued for the North Area, one may be issued for the Central Area and one may be issued for the South Area based on the boundaries of the Commercial Cannabis Map approved by the City Council concurrently with the adoption of this Chapter. An Applicant will be approved for no more than one (1) Commercial Cannabis Permit within the City.
1. The process for issuing Commercial Cannabis Permits to qualified cannabis businesses is meant to result in qualified businesses that will operate in accordance with state and local law, be successful, contribute positively to the community and local economy, and avoid secondary adverse impacts. Toward that objective, the application process includes these ~~five~~four phases:
 - (1) PHASE ONE: Application submittal. This includes submitted complete information, completed Livescan and background check information (state and federal database) of all Responsible Persons, processing fees, conceptual renderings and location identification.
 - (2) PHASE TWO: Initial scoring of application by a qualified third party.
 - (3) PHASE THREE: Interview process.
 - (4) PHASE FOUR: Final scoring, and, if permits available, permit issuance.
2. Chapter 33, Section 30-8 “Initial Commercial Cannabis Permit Application and Scoring”, is hereby restated and amended as follows:

Sec. 33.-8– Initial Commercial Cannabis Permit Application and Scoring

(a) The City Manager may establish additional submittal requirements for an application for a Commercial Cannabis Permit. The intent of this Chapter is to create a merit-based, competitive evaluation system. Applications submitted by legal representatives, consultants, partners or investors will not be accepted. The following information shall be included in any application for a Commercial Cannabis Permit:

- (1.) Name of Applicant
- (2.) Business Trade Name (if applicable) of the applicant
- (3.) Identification of Owner(s) (full name, primary phone number, social security number or individual taxpayer identification number, date and place of birth, email address, and mailing address for the primary owner submitting the Application)
- (4.) For each person that is an “owner” of the Applicant,
 - (i.) Percentage of interest held in the Applicant entity by each owner;
 - (ii.) Whether the owner has an ownership or financial interest, as defined in section 5003 of the Regulations, in any other Commercial Cannabis Business licensed under the AUMA or MAUCRSA;
 - (iii.) A copy of each Responsible Person’s government-issued identification, acceptable forms are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, physical description, and picture of the owner, such as a driver’s license;
 - (iv.) A detailed description of the owner’s criminal convictions, if applicable. A conviction for this purpose means a plea or guilty verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismissed under Penal Code section 1203.4 or equivalent non-California law must be disclosed. Convictions dismissed under Health & Safety Code section 11361.8 or equivalent non-California law must be disclosed. Juvenile Adjudications and traffic infractions under \$300 that did not involve alcohol, dangerous drugs, or

controlled substances do not need to be included. For each conviction, provide: (1) the date of conviction; (2) dates of incarceration, if applicable; (3) dates of probation, if applicable; (4) dates of parole, if applicable; (5) a detailed description of the offense for which the owner was convicted; and (6) a statement of rehabilitation for each conviction written by the owner that demonstrates the owner's fitness for consideration;

- (v.) If applicable, a detailed description of a commercial cannabis license, revocation of a commercial cannabis license, or sanctions for unlicensed Commercial Cannabis Activity by a licensing authority or local agency against the Applicant or a business entity in which the Applicant was an owner or officer within the three (3) years immediately preceding the date of the application;
- (vi.) If applicable, a detailed description if the City issued the Applicant a notice or citation for unlicensed Commercial Cannabis Activity, or if the Applicant was a defendant in a civil or criminal proceeding filed by the City or the People of the State of California, for allowing, causing, or permitting unlicensed commercial cannabis activities within the City's jurisdiction;
- (vii.) An attestation of each owner as follows: "Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true, and accurate. I understand that a misrepresentation of fact or omission may be cause for rejection or denial of this application, or revocation of any Commercial Cannabis Permit or any permit, license or approval issued in reliance thereon."
- (viii.) Authorization letter. "Authorization Letter" is Proof of ownership, lease agreement, or a "Letter of Intent" to lease premises proposed by Applicant for operation of a Commercial Cannabis Business, executed with notarial acknowledgement, by owner of premises. If a "Letter of Intent" is furnished, no more than one (1)

Applicant may have a Letter of Intent agreement with the landlord per address.

- (5) Primary Contact: The contact information for the Applicant's designated primary contact person, including the name, title, phone number, and email address of said individual.
- (6) Qualifications and Experience of Applicants and Owners: The application shall include information concerning any special business or professional qualifications or licenses of the applicants and owners, and the years of relevant and related experience, that would add to the number or quality of services that facility would provide, or otherwise demonstrates the Applicants' and owners' capacity to operate a successful commercial cannabis facility in compliance with applicable laws and regulations.
- (7) Disclosure of Lobbying Activity: If Applicant contracted, employed or in any manner paid or will pay any person for influencing or attempting to influence an elected official, appointed official or any employee of the City, shall fully disclose the name of individuals and organization(s) performing lobbying services.
- (8) Description of Operating Procedures: Applications shall include a detailed description of the Applicant's proposed operating procedures for each commercial cannabis activity, including an explanation for how the business will comply with the operating regulations of this Code and state law. The application must include copies of any applicable policies or manuals of the Applicant and address each of the following, if applicable:
 - (i.) Transportation Procedures: A description of the procedure for transporting cannabis and cannabis products, including whether or not the Applicant will be transporting cannabis or cannabis products or contracting for transportation services.
 - (ii.) Inventory Procedures:
 - 1. A description of the Applicant's procedure for receiving shipments of inventory;

2. Where the Applicant's inventory will be stored on the premises and how records of the inventory will be maintained; and
 3. Procedure for performing inventory reconciliation and for ensuring that inventory records are accurate.
- (iii.) Quality Control Procedures:
1. Procedures for preventing the deterioration of cannabis or cannabis products held by the Applicant;
 2. Procedures for ensuring that cannabis and cannabis products are properly packaged and labeled; and
 3. Procedure for ensuring that an independent licensed testing laboratory samples and analyzes cannabis and cannabis products held by the Applicant.
- (iv.) Security Procedures: All Applicants shall propose sufficient security measures to deter and prevent the unauthorized access or entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the Commercial Cannabis Business (together a "Security Plan"). The proposed Security Plan will remain confidential and shall include, but shall not be limited to, all of the following:
1. Preventing individuals from remaining on the premises of the Commercial Cannabis Business if they are not engaging in an activity directly related to the permitted operations of the Commercial Cannabis Business.
 2. Establishing limited access areas accessible only to authorized Commercial Cannabis Business personnel.

3. How and where all cannabis and cannabis products will be stored in a secured and locked room, safe, or vault. How all cannabis and cannabis products, will be kept in a manner as to prevent diversion, theft, and loss.
4. Procedures for installing 24-hour security surveillance cameras (CCTV) of at least HD-quality video with audio to monitor all entrances and exits to and from the premises, all interior spaces within the Commercial Cannabis Business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. Procedures for how the Applicant will ensure that the security surveillance camera's footage is remotely accessible to law enforcement, and that it is compatible with the City's software and hardware. In addition, procedures on how remote and real-time, live access to the video footage from the cameras will be provided to law enforcement. Procedures for ensuring video recordings are maintained for a minimum of sixty (60) calendar days, and procedures to make them available to law enforcement upon request. Procedures to ensure video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the Commercial Cannabis Business.
5. A description of where sensors will be installed to detect entry and exit from all secure areas.
6. A description of procedures of installing panic buttons in the premises.
7. Description of having a professionally installed, maintained, and monitored alarm system, with the required City alarm permit as

required by this Fontana City Code Section 14-391, et seq.

8. A description of the physical security features and improvements that will be installed on the exterior and within the interior of the building, in full compliance with all applicable Building and Safety and Fire Code requirements and any applicable zoning requirements. Use of wrought iron on any exterior door, window or opening is prohibited.
9. Procedures on establishing a plan to have security personnel on-site 24 hours a day, or alternative security as authorized by the City. Description or documentation showing that the proposed security personnel are licensed by the State of California Bureau of Security and Investigative Services personnel. Procedure to submit to the City and the City's law enforcement agency the names and contact information of security personnel, with copies of state-issued licenses and permits, government-issued identification form, and photographs of uniforms and badges. Acknowledgement from Applicant indicating that it shall be responsible for providing this confirming information to law enforcement, with updating information within seven (7) calendar days of a change in security personnel, agents, or representatives.
10. Procedures on how each Applicant shall have the capability to remain secure during a power outage and ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
11. Identification of a designated security representative/liaison to the City, who shall be reasonably available to meet with City staff, as well as law enforcement regarding any security related measures or operational issues.

12. A storage and transportation plan, describing in detail the procedures for safely and securely receiving, storing and transporting all cannabis, cannabis products, including the use of child-safe cannabis containers, and any currency.
 13. An affirmative commitment that the Applicant will cooperate with the City whenever the City Manager, or his or her designee, makes a request, upon reasonable notice, to inspect or audit the effectiveness of any Security Plan or of any other requirement of this subsection.
 14. A description and plan of how the Applicant will notify law enforcement within 24 hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by law enforcement.
 - b. Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Business or any agent or employee of the Commercial Cannabis Business.
 - c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the Commercial Cannabis Business.
 - d. Any other breach of security.
- (9) All applicants shall submit a workforce plan that may include, but is neither limited to, nor required to include, a (1) commitment for local hires; (2) commitment to offer apprenticeships and/or compensation for continuing education in the field; (3) pay a living wage to its employees, and (4) draft collective bargaining agreement with labor

organization that currently represents cannabis workers in the United States.

- (10) Seller's Permit: The Applicant shall provide a valid seller's permit number issued by the California Department of Tax and Fee Administration, if applicable. If the Applicant has not yet received a seller's permit, the applicant shall attest that the Applicant is or will before commencing operations, apply for a seller's permit.
- (11) Indemnification Agreement: To the fullest extent permitted by local, state and federal law, the City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit or otherwise approving the operation of any Commercial Cannabis Business. As a condition to the approval of any Commercial Cannabis Permit, the Applicant is to execute a separate Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Commercial Cannabis Permit, the Commercial Cannabis Permittee's Commercial Cannabis Activities, and any action taken by the Cannabis Permittee. The Indemnification Agreement shall include the defense of the City and reimbursement of all fees, costs and expenses incurred by the City related to any action arising from the Agreement.
- (12) Payment of Application Fee: Each Applicant shall pay the applicable fee(s) pursuant to this Chapter.
- (13) Each Applicant shall provide the City a Security deposit or bond for code compliance costs. The Security deposit or bond shall be in an amount established by the City Council and shall be provided with the application.
- (14) Site identification and conceptual renderings of the interior and exterior of the proposed premises, which shall not be less than 4,000 square feet. Site identification shall include, but not be limited to:
 - (i.) A complete and detailed site plan of the premises, interior and exterior elevations of the premises, and a map showing the premises' location within the City. The site plan and must comply with the following:

1. Shows the boundaries of the property and the proposed premises to be utilized, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, bathrooms, windows, doorways, and common or common shared entryways, and a brief statement of the principal activity to be conducted therein;
2. Map identifying any instruction in kindergarten or any grades 1 through 12, day care, park, Youth and Recreation Center facilities, City boundaries and any Commercial Cannabis Business located within 600 feet of the property lines of the proposed location. If the proposed location is not within 600 feet of any such uses, identify on the map the closest such use, and the distance in feet between that use and the property line of the proposed location;
3. Identifies all commercial cannabis activities that will take place in each area of the premises, and identification of limited access areas;
4. The location of all proposed security cameras with a number assigned to each for identification purposes;
5. The diagram shall be clear, legible, and to scale, and shall not include any highlighting; and
6. If the proposed premises include only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remainder will be used for.

- (ii) The Commercial Cannabis Permit Application Evaluator may conduct a site inspection as part of the review.
- (b) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every Applicant and Responsible Person of the Commercial Cannabis Business must submit fingerprints and other information deemed necessary by the Fontana Police Department, or the City's law enforcement agency, for a background check. No person shall be issued a permit to operate a Commercial Cannabis Business unless they have first cleared the background check, as determined by the City, Fontana Police Department, or the City's law enforcement agency as required by this section.
- (c) The City Manager may adopt any procedure(s) to supplement the initial application process. The City Manager is authorized to prepare the necessary applications, forms, adopt any necessary rules to the application, regulations and processes, and solicit applications.
- (d) Any Applicant whose 'ownership' includes a person with a past plea or verdict of guilty or a conviction following a plea of nolo contendere for operating a non-licensed cannabis business shall be disqualified from receiving a Commercial Cannabis Permit.

NOTICE OF EXEMPTION

TO: Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

FROM: City of Fontana
Planning Department
8353 Sierra Avenue
Fontana, CA 92335

Project Title: Master Case No. 22-0110
Municipal Code Amendment No. 22-007

Project Location - Specific: Citywide
(a) Project Location - City: Fontana, CA
(b) Project Location - County: San Bernardino

1. Description of nature, purpose, and beneficiaries of Project: Master Case No. 22-110 and Municipal Code Amendment No. 22-007 - Fontana Municipal Code amendment to Chapter 2 (Administration), (Chapters 9 (Environmental Protection and Resource Extraction), Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities).
2. Name of Public Agency approving project: City of Fontana
3. Name of Person or Agency carrying out project: City of Fontana
4. Exempt status: (Check one)
 - (a) ☐ Ministerial project.
 - (b) ☐ Not a project.
 - (c) ☐ Emergency Project.
 - (d) ☒ Categorical Exemption. State type and class number: Exempt under guidelines section 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.
 - (e) ☐ Declared Emergency.
 - (f) ☐ Statutory Exemption. State Code section number: _____
 - (g) ☐ Other. Explanation: _____
5. Reason why project was exempt: This project is a citywide code update to Chapter 2, 9, 25, 26, 30, and 33 of the Fontana Municipal Code. There is no associated development with this project.
6. Contact Person: Salvador Quintanilla, Senior Planner Telephone: (909) 350-6656

Date Received for Filing: _____

DiTanyon Johnson
Principal Planner

(Clerk Stamp Here)

ATTACHMENT NO. 2



NOTICE OF PUBLIC HEARING

Si desea información en Español referente a esta notificación o proyecto, favor de comunicarse al (909) 350-6728.

In compliance with Section No. 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE PLANNING COMMISSION
OF THE CITY OF FONTANA FOR THE FOLLOWING:

Master Case No. 22-110/Municipal Code Amendment No. 22-007: Update to the City of Fontana Municipal Code for amendments to Chapter 2 (Administration), Chapters 9 (Environmental Protection and Resource Extraction), Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities). Chapter 2, Chapter 25, Chapter 26, and Chapter 30 amendments will include removal of the Development Advisory Board (DAB) process. Chapter 9 amendments include a revision to the definition of sensitive receptors. Additional Chapter 30 amendments include establishment of a process for specific special event venues, modification of park requirements within the Form Based Code, addition of language for density/replacement units to address Senate Bill 330, and addition of language for the review of City initiated projects. Chapter 33 amendments will include minor text modifications to the Cannabis Business guidelines. The Planning Commission will review and forward a recommendation to the City Council for the proposed project.

Environmental Determination: This project 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.

Location: Citywide

Date of Hearing: September 20, 2022

Place of Hearing: City Hall Council Chambers, 8353 Sierra Avenue, Fontana, CA, 92335

Time of Hearing: 6:00 pm

Should you have any questions concerning this project, please contact Salvador Quintanilla, Senior Planner, at (909) 350-6656 or squintanilla@fontana.org.

ANY INTERESTED PARTY MAY PROVIDE INFORMATION BY LETTER OR EMAIL WHICH MAY BE OF ASSISTANCE TO THE PLANNING COMMISSION. A COPY OF THE APPLICATION AND ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION. PLEASE CONTACT THE PLANNER LISTED ABOVE.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish:

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