

## **ORDINANCE NO. 1891**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING CHAPTER 9 OF THE FONTANA MUNICIPAL CODE TO REVISE ARTICLE V FOR MODIFICATIONS AND CLARIFICATION TO BUFFERING AND SCREENING REQUIREMENTS, METHODS TO IMPROVE TRAFFIC CIRCULATION, REQUIREMENTS FOR ALTERNATIVE ENERGY, AND IMPROVEMENTS TO CONSTRUCTION REQUIREMENTS AS IT RELATES TO INDUSTRIAL COMMERCE CENTERS THROUGHOUT THE CITY.**

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

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

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

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

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

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

**WHEREAS**, the City of Fontana currently regulates industrial commerce centers in Specific Plans, Chapter 30 of the Zoning and Development Code, and in Chapter 9, and Article V (Industrial Commerce Centers Sustainability Standards) of the Municipal Code. Furthermore, Ordinance No. 1879 that established Article V in Chapter 9 of the Municipal Code was adopted by City Council on February 8, 2022; and

**WHEREAS**, the City initiated Municipal Code Amendment (AMD) No. 21-001R1 amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to modify Article V to revise Industrial Commerce Centers Sustainability Standards, which includes modifications and clarification to buffering and screening requirements, methods to improve traffic circulation, requirements for alternative energy, and improvements to construction as it relates to industrial commerce centers throughout the city; and

**WHEREAS**, December 21, 2021, the City Council held the second reading and adopted Ordinance No. 1879 for Municipal Code Amendment (AMD) No. 21-001 to add Article V to establish sustainability standards for industrial commerce centers throughout the city; and

**WHEREAS**, On March 22, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (AMD) No. 21-001R1, and the supporting documents in evidence, the City Council found that the Municipal Code Amendment is in conformance with General Plan and does not change any of the Land Use Designation of any properties and it is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences; and

**WHEREAS**, a notice of the public hearing was published in the local *San Bernardino County Sun* newspaper on Saturday, March 12, 2022 and posted at City.

**THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:**

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

**Section 2.** Article V of Chapter 9 of the Fontana Municipal Code is hereby amended and renumbered follows:

**ARTICLE V. – Industrial Commerce Centers Sustainability Standards**

**Sec. 9-70. – Applicability.**

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

**Sec. 9-71. – Buffering and Screening / Adjacent uses.**

- (1) For any Warehouse 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 twenty-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, and dormitories.

- (2) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner 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.
- (3) All landscaping shall be drought tolerant, and to the extent feasible, species with low biogenic emissions. Palm trees shall not be utilized.
- (4) All landscaping areas shall be properly irrigated for the life of the facility to allow for plants and trees to maintain growth.
- (5) Trees shall be installed in automobile parking areas to provide at least 35% shade cover of parking areas within fifteen years. Trees shall be planted that are capable of meeting this requirement.
- (6) 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."
- (7) 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.

**Sec. 9-72. – Signage and Traffic Patterns.**

- (1) Entry gates into the loading dock/truck court area shall be positioned after a minimum of 140 feet of total available stacking depth inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 50 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited unless queuing occurs in a deceleration lane or right turn lane exclusively serving the facility.
- (2) Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification), and vehicle entries shall be designed to prevent truck access on streets that are not Collector Streets (or streets of a higher commercial classification), including, but not limited to, by limiting the width of vehicle entries.
- (3) Anti-idling signs indicating a 3-minute diesel truck engine idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.
- (4) Prior to issuance of certificate of occupancy facility operators shall establish and submit for approval to the Planning Director a Truck Routing Plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the use of the facility operator, including, but not limited to, hours of operations, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing sensitive receptors, to the greatest extent possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. Facility operator shall be responsible for enforcement of the plan. A revised plan shall be submitted to by the Planning Director prior to a business license being issued by the City for any new tenant of the property. The Planning Director shall have discretion to determine if changes to the plan are necessary including any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility.

- (5) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.
- (6) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee, truck, or other operation related vehicle is strictly prohibited. City may require facility operator to post signs on surface or residential streets indicating that off-site truck parking is prohibited by City ordinance and/or the Truck Routing Plan.
- (7) Signs shall be installed at all truck exit driveways directing truck drivers to the truck route as indicated in the Truck Routing Plan and State Highway System.
- (8) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors, and truck and parking complaints for the site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664. Any complaints made to the facility operator's designee shall be answered within 72 hours of receipt.
- (9) All signs under this Section shall be legible, durable, and weather-proof.
- (10) Prior to issuance of a business license, City shall ensure for any facility with a building or buildings larger than 400,000 total square feet, that the facility shall include a truck operator lounge equipped with clean and accessible amenities such as restrooms, vending machines, television, and air conditioning.”

**Sec. 9-73. – Alternative Energy.**

- (1) On-site motorized operational equipment shall be ZE (zero emission).
- (2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.
- (3) The office portion of a building's rooftop that is not covered with solar panels or other utilities shall be constructed with light colored roofing material with a solar reflective index (“SRI”) of not less than 78. This material shall be the minimum solar reflective rating of the roof material for the life of the building.”

- (4) On buildings over 400,000 square feet, prior to issuance of a business license, the City shall ensure rooftop solar panels are installed and operated in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the facility including the parking areas.
- (5) At least 10% of all passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. At least 5% of all passenger vehicle parking spaces shall be equipped with working Level 2 Quick charge EV charging stations installed and operational, prior to building occupancy. Signage shall be installed indicating EV charging stations and specifying that spaces are reserved for clean air/EV vehicles. Unless superior technology is developed that would replace the EV charging units, facility operator and any successors in interest shall be responsible for maintaining the EV charging stations in working order for the life of the facility.
- (6) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units (TRUs) to plug in. Truck operators with TRUs shall be required to utilize electric plug-in units when at loading docks.
- (7) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-714 of the Zoning and Development Code. The racks shall include locks as well as electric plugs to charge electric bikes. The racks shall be located as close as possible to employee entrance(s). Nothing in this section shall preclude the warehouse operator from satisfying this requirement by utilizing bicycle parking amenities considered to be superior such as locating bicycle parking facilities indoors or providing bicycle lockers.

**Sec. 9-74. – Operation and Construction.**

- (1) Cool surface treatments shall be added to all drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement such as concrete.

- (2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25% excess demand capacity.
- (3) Use of super-compliant VOC architectural and industrial maintenance coatings (e.g., paints) shall be required.
- (4) The facility operator shall incorporate a recycling program.
- (5) The following environmentally responsible practices shall be required during construction:
  - a. The applicant shall use reasonable best efforts to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director and shall require proof from the construction contractor that, despite reasonable best efforts to obtain the highest CARB Tier equipment, such equipment was unavailable.
  - b. Use of electric-powered hand tools, forklifts, and pressure washers.
  - c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge.
  - d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.
  - e. Diesel-powered generators shall be prohibited except in case of emergency or to establish temporary power during construction.
- (6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program.

**Section 3.** Based on the foregoing, the City Council determines that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment. The Council hereby directs staff to prepare, execute and file with the San Bernardino County Clerk a notice of exemption within five working days after the adoption of this Ordinance.

**Section 4.** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 5.** This Ordinance shall take effect thirty (30) days after the date of its adoption.

**Section 6.** The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana. The City Clerk is the custodian of records for this Ordinance and the records are available at 8353 Sierra Avenue, Fontana CA 92335.

**APPROVED AND ADOPTED** 12<sup>th</sup> day of April, 2022.

**READ AND APPROVED AS TO LEGAL FORM:**

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City Attorney

I, Germaine McClellan Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance

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adopted by the City Council and was introduced at a regular meeting on the 22<sup>nd</sup> day of March, 2022, and was finally passed and adopted not less than five days thereafter on the 12<sup>th</sup> day of April, 2022, by the following vote to wit:

**AYES:** Mayor Warren, Mayor Pro Tem Garcia, Council Members, Cothran, Roberts and Sandoval

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

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City Clerk of the City of Fontana

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Mayor of the City of Fontana

**ATTEST:**

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City Clerk