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ORDINANCE NO.

An Ordinance of San Bernardino County, State of California, to add Chapter 85.22 to Division 5 of Title 8 of the San Bernardino County Code, related to application and review procedure for projects proposed within an environmental justice focus area.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of San Bernardino County finds that:

- (a) This ordinance will amend the San Bernardino County Development Code (“Development Code”) to establish an administrative procedure to implement environmental justice goals and policies adopted by San Bernardino County (“County”) pursuant to Government Code section 65302(h) and to further promote civic engagement for development projects proposed within or near an environmental justice focus area (EJFA) established by the Policy Plan pursuant to Government Code section 65302(h).
- (b) Land use applications deemed complete prior to the effective date of this ordinance shall be exempt from the application requirements set forth in Chapter 85.22 of the Development Code.
- (c) Properly noticed public hearings have been held before the San Bernardino County Planning Commission and the San Bernardino County Board of Supervisors pursuant to the Planning and Zoning Law of the State of California and the Development Code.
- (d) This ordinance is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Title 14 of the California Code of Regulations, Section 15061(b)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15308

1 (Actions by Regulatory Agencies for Protection of the Environment) because the
2 ordinance is intended to assure the maintenance or protection of the environment
3 associated with development projects in or near an EJFAs. Each exemption
4 stands as a separate and independent basis for determining that this ordinance is
5 not subject to CEQA.
6

7 SECTION 2. Chapter 85.22 is added to Division 5 of Title 8 of the San Bernardino
8 County Code, to read:

9 **Chapter 85.22 Environmental Justice Focus Areas**

- 10 85.22.010 Purpose
- 11 85.22.020 Definitions
- 12 85.22.030 Establishment
- 13 85.22.040 Applicability
- 14 85.22.050 Process and Review Procedures
- 15 85.22.060 General Development and Use Standards

16 **85.22.010 Purpose**

17 The purpose of this Chapter is to implement environmental justice goals and
18 policies for applicable development projects proposed within or near an unincorporated
19 environmental justice focus area (EJFA) established by the Policy Plan pursuant to
20 Government Code section 65302(h).

21 **85.22.020 Definitions**

22 The definitions in this Section are intended to apply to this Chapter only. Any term
23 which is not specifically defined herein shall have the definition as provided by Division
24 10 of this Development Code.

25 (a) **Development Project.** Development project means a land use application that
26 requests either a Policy Plan amendment, specific plan, specific plan amendment,
27 zoning amendment, conditional use permit, or planned development permit.

28 (b) **EJFA.** EJFA means an area identified on Policy Map HZ-10 (Environmental

1 Justice & Legacy Communities). For purposes of this Chapter, a development
2 project is considered located near an EJFA if the exterior boundary of any portion
3 of the subject parcel is located within 1,000 feet of an EJFA boundary.

4 (c) **Interested Party.** Interested party means a person, group or organization that
5 files a written request to the Department to be on a list for mailed notice of
6 development projects proposed within or near an EJFA and said request is made
7 pursuant to this Chapter. A written request for mailed notice shall be valid for the
8 calendar year in which it is received and must be renewed annually. The
9 Department shall maintain a list of interested parties for an applicant's compliance
10 with this Chapter.

11 (d) **Outreach Plan.** Outreach plan means and describes how the target audience of
12 an EJFA will be notified and how the required content of this Chapter will be
13 communicated and achieved.

14 (e) **Predominant Language Spoken.** Predominant language spoken means a
15 language, other than English, that is spoken by at least 10 percent of residents
16 who are considered linguistically isolated in the EJFA or census tract as published
17 by the California Office of Environmental Health Hazard Assessment,
18 CalEnviroScreen 4.0 Linguistic Isolation Map, as may be amended.

19 **85.22.030 Establishment**

20 Identification and boundaries of an EJFA are as shown on Policy Map HZ-10
21 (Environmental Justice & Legacy Communities) and is available for review at the offices
22 of the Clerk of the Board, the Department and posted on the Department's website at
23 <https://countywideplan.com>.

24 **85.22.040 Applicability**

25 (a) This Chapter shall apply to an application for a development project located within
26 or near an EJFA.

27 (b) An application for a development project located within or near an EJFA shall not
28 be deemed complete for processing unless the requirements of this Chapter have

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<i>Notes:</i>
(1) A compressive amendment initiated by the Director, Commission or Board shall be exempt from the notification and outreach plan and outreach meeting requirements.

(b) **Category Determination.** Prior to acceptance of an application as complete for a development project located within or near an EJFA, the Director shall determine the category classification of the proposal in accordance with Table 85-6 (EJFA Notification and Outreach Requirements). The Director’s determination may be appealable by the applicant to the Commission in accordance with Chapter 86.08 (Appeals). The determination of an appeal by the Commission shall be final.

(c) **Submittal Requirements.** The following information is required to be made part of the application package for a development project:

(1) **Category A.** Category A application shall be processed in compliance with Chapter 85.01 (Permit Application Filing and Processing) and Chapter 85.03 (Application Procedures) with the following additional requirements:

(A) All public notices for the development project application required by this Development Code shall be provided in English and in the predominant language spoken by residents in the EJFA.

(B) All public notices required by this Development Code shall be mailed to property owners, residents, and business owners within a distance required by Table 85-6 (EJFA Notification and Outreach Requirements) from the external boundary of the development project site. Public notices to property owners shall be determined by the address shown on the latest equalized tax assessment roll and notices to residents and business owners at the address of the affected properties. Public notices shall also be mailed to interested parties requesting notice pursuant to this Chapter.

(C) **On-site Project Identification Sign Posting Requirements.** In

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order to implement on-site posting as an effective form of public notification, the following rules and standards shall apply:

- i) **Sign Requirements.** A four-foot by eight-foot project identification sign constructed out of laminated, durable materials, shall be installed on each of the property lot frontages that are visible to the public road right of way. For properties that are unusually shaped, or are in a unique location, or do not have any lot frontages that are visible to the public road right of way, the Director may determine the location for sign posting or require additional noticing requirements.
- ii) **Sign Content.** An on-site project identification sign shall include a general description of the proposed development project, name of applicant, name and contact information of the project planner, and location where further information can be obtained.
- iii) **Timing.** Within 10 calendar days of a development project being deemed complete, the project identification sign shall be installed at the site of the development project. The applicant shall upload a photograph to the EZOP portal showing the on-site sign is installed in accordance with this Chapter.
- iv) **Maintenance.** The applicant is responsible for the replacement of any missing, damaged, or vandalized sign within five calendar days of discovery by applicant and/or notification from the County. The County may cease processing the application if the on-site sign is not maintained.
- v) **Duration of sign posting.** An on-site project identification

1 sign shall be removed within 30 calendar days of final action
2 by the review authority, application withdrawal or application
3 expiration.

4 (2) **Category B and Category C.** Category B and Category C applications shall
5 be processed in compliance with Subsection 85.22.050(c)(1) (Category A)
6 above, and shall comply with the following additional requirements:

7 (A) An outreach plan shall be prepared in compliance with Subsection
8 85.22.050(d) (Outreach Plan Contents) below.

9 (B) A Health Risk Assessment (HRA) shall be required for any
10 development project that could potentially increase the incremental
11 individual cancer risk by 10 in 1 million or more in an EJFA. A Health
12 Risk Assessment required by this Chapter shall evaluate impacts of
13 truck traffic from the development project site to the nearest freeway.

14 (d) **Outreach Plan Contents.** An outreach plan shall consist of the following
15 information:

16 (1) A map of the development project site depicting the boundaries of the
17 affected EJFA and identifying the location of the development project within
18 the EJFA, or, if not within the EJFA, how far the development project is
19 located from the EJFA boundary.

20 (2) A list of interested parties that will be contacted to participate in identifying
21 the outreach components of the plan with the goal of reaching as many
22 property owners, residents, and business owners to participate and
23 comment on the development project at an outreach meeting and public
24 hearing.

25 (3) A schedule of planned outreach meeting with the date, time, location (within
26 the EJFA), agenda, names of the applicant's representatives and
27 consultants who will attend and a description of their function.

28 (4) How the applicant will provide notice to property owners, residents,

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- business owners, and interested parties of the required outreach meeting.
- (5) How the applicant will provide interpreter services during an outreach meeting and public hearing for persons who speak limited or no English. The interpreter services shall be provided for those languages which are predominant within the affected EJFA.
 - (6) How the concerns brought up by the property owners, residents, business owners, and interested parties will be documented for inclusion as part of the record of the development project. The applicant is required to show how the input from the participants at an outreach meeting will be used to mitigate the development project’s potential impacts on the EJFA and show how the proposed project may be modified to address the concerns of the participants, as applicable. The outreach plan shall also include how the applicant will communicate the results of the outreach meeting and any modifications to the proposed project as a result of the outreach meeting to the participants, prior to any public hearing on the application.

(e) **Notification Requirements for Category B and Category C Development Projects.** Notification of property owners, residents, and business owners of an outreach meeting and public hearing shall comply with the requirements of Table 85-6 (EJFA Notification and Outreach Requirements) and include the following:

- (1) **Outreach Meeting Requirements.**
 - (A) The applicant shall be responsible for providing notices of the outreach meeting to the residents, property owners, business owners and interested parties pursuant to the approved outreach plan. The applicant shall provide the Department with proof of mailing and/or posting of properties notified pursuant to the outreach plan and as required by Table 85-6 (EJFA Notification and Outreach Requirements).

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- (B) The applicant shall provide, and the Department shall review and edit as necessary, a draft “Notice of Community Outreach Meeting” for each outreach meeting proposed in the outreach plan. The applicant shall provide the notice in English and in the predominant language spoken in communities within the affected EJFA.
 - (C) The “Notice of Community Outreach Meeting” shall provide a general description of the development project, identify the development project location and provide the date, time, location and purpose of the outreach meeting. Notification of the outreach meeting shall be issued pursuant to the outreach plan and shall be mailed by the applicant to property owners, residents, business owners and interested parties at least 10 calendar days prior to the scheduled outreach meeting. The applicant shall be responsible for the cost of mailing.
 - (D) The applicant shall be responsible for providing additional methods of providing public notice of outreach meetings to property owners, residents and business owners within the required notification area of the EJFA through means identified in the outreach plan. Examples of methods may include posting of informational posters, distribution of flyers, advertisements in local newspapers, social media, etc.
 - (E) When an application for a Category B or Category C development project is accepted by the Department as complete, the Department will notify the public of such application by posting the project description and related information on the Department’s website.
- (2) **Translation Requirements.** In the event a Category B or Category C development project requires the preparation of an environmental impact report pursuant to the California Environmental Quality Act, the applicant shall be responsible for obtaining translating services to translate the

1 executive summary portion of the draft environmental impact report into the
2 predominant language spoken in the EJFA.

3 (3) **Public Hearing Requirements.** In addition to the requirements of Section
4 86.07.020 (Notice of Hearing), the following public hearing requirements
5 shall apply to a Category B or Category C development project proposed
6 within or near an EJFA:

7 (A) At least 10 calendar days before the scheduled public hearing, the
8 Department shall:

9 i) Mail a notice of the meeting to all property owners, residents,
10 and business owners within the notification area required by
11 Table 85-6 (EJFA Notification and Outreach Requirements).
12 Public notices to property owners shall be determined by the
13 address shown on the latest equalized tax assessment roll
14 and notices to residents and business owners at the address
15 of the affected properties. Public notices shall also be mailed
16 to interested parties requesting notice pursuant to this
17 Chapter.

18 ii) Post a notice of the public hearing on the Department's
19 website.

20 (B) The notice and posting shall be in English and in the predominant
21 language spoken in communities within the affected EJFA.

22 (C) Interpreter services shall be provided at the public hearing in the
23 predominant language spoken in the affected EJFA. Interpreter
24 services shall be arranged by and paid for by the applicant. Failure
25 to provide interpreter services at the public hearing may result in the
26 public hearing being continued to a date at which such services are
27 available.

28 **85.22.060 General Development and Use Standards**

1 (a) **Development Standards Applicable to an EJFA.** The following development
2 standards shall apply to an EJFA:

3 (1) No new truck routes shall be established that result in truck access through
4 a residential neighborhood within an EJFA.

5 (b) **Use Standards Applicable to an EJFA.** The following uses shall not be allowed
6 in an EJFA:

7 (1) Hazardous Waste Facilities.
8

9 SECTION 3. The Board of Supervisors declares that it would have adopted this
10 ordinance and each section, sentence, clause, phrase, or portion of it irrespective of the
11 fact that any one or more sections, subsections, clauses, phrases or portions of it be
12 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
13 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
14 enforceable.

15
16 SECTION 4. This ordinance shall take effect 30 calendar days from the date of
17 adoption.
18

19
20 _____
21 DAWN ROWE, Chair
22 Board of Supervisors

23 SIGNED AND CERTIFIED THAT A COPY
24 OF THIS DOCUMENT HAS BEEN DELIVERED
25 TO THE CHAIR OF THE BOARD

26 LYNNA MONELL, Clerk of the
27 Board of Supervisors
28 _____

1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of
6 said County and State, held on the _____ day of _____, 20__, at which meeting
7 were present Supervisors: _____

8 _____,
9 and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to
10 wit:

11 AYES: SUPERVISORS:

12 NOES: SUPERVISORS:

13 ABSENT: SUPERVISORS:

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
15 of the Board of Supervisors this ____ day of _____, 20__.

16 LYNNA MONELL, Clerk of the
17 Board of Supervisors of
18 San Bernardino County,
19 State of California

20 _____
21 Deputy

22 Approved as to Form:

23 TOM BUNTON
24 County Counsel

25 By: _____
26 JOLENA E. GRIDER
27 Deputy County Counsel

28 Date: _____