

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

September 12, 2023

FROM

MARK WARDLAW, Director, Land Use Services

SUBJECT

Ordinance Amending Title 8 of the County Code Relating to Environmental Justice Focus Areas

RECOMMENDATION(S)

IT IS ANTICIPATED THAT THIS ITEM WILL BE CONTINUED TO TUESDAY, OCTOBER 24, 2023

1. Conduct a public hearing to consider proposed ordinance amending Title 8 of San Bernardino County Code to add Chapter 85.22 to establish application and review procedures for projects located in or near environmental justice focus areas.
2. Find that the proposed ordinance is categorically exempt from the California Environmental Quality Act Guidelines pursuant to Section 15061, subdivision (b)(3), or, alternatively, Section 15308 of Title 14 of the California Code of Regulations.
3. Adopt the findings recommended by the Planning Commission for approval of the proposed ordinance.
4. Make alterations, if necessary, to proposed ordinance.
5. Approve introduction of proposed ordinance.
 - 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.
6. ADOPT ORDINANCE.
7. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption.
(Presenter: Mark Wardlaw, Director, 387-4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.
Provide for the Safety, Health and Social Service Needs of County Residents.**

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost) for the Land Use Services Department (LUS). Sufficient appropriation and revenue to complete this action have been included in the LUS, Planning Division 2023-24 budget. All costs of processing development applications within Environmental Justice Focus Areas (EJFA) are paid by applicants.

BACKGROUND INFORMATION

This item proposes the introduction and adoption of an ordinance to add Chapter 85.22 to Division 5 of Title 8 of the San Bernardino County Code to implement the goals and policies of the Hazard Element of the Countywide Policy Plan (Policy Plan) related to environmental justice

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(Goal HZ-3 and Policies HZ-3.1 through HZ-3.21). The ordinance implements various environmental justice policies by establishing additional application and review procedures, development standards, and restrictions for development projects located within or near an EJFA, which is an area where the County seeks to encourage and facilitate public improvements and private investment that lead to increased commercial, office, or industrial employment opportunities. The addition of Chapter 85.22 was necessitated by the recent adoption of environmental justice goals and policies as part of the Policy Plan and is organized into six sections as follows:

Purpose – Provides the overall purpose of the chapter is to implement environmental justice goals and policies of the Hazard Element by regulating and establishing process and review procedures, development standards and use standards for development projects located within or near an EJFA and to promote civic engagement in the public decision-making process.

Definitions – Provides definitions used throughout the chapter that include:

- Defines development project as a land use application for either a policy plan, specific plan or zoning amendment, conditional use permit or planned development project.
- Defines EJFA as those areas established by the Policy Plan and establishing a 1,000-foot distance from EJFA boundaries that will subject a development project to the requirements of this chapter.
- Defines interested parties as persons, groups or organizations that can be added to a list to be notified of all community meetings and public hearings related to development projects in an EJFA.
- Defines and establishes criteria for determining predominant language spoken in EJFA.

Establishment – Provides the identification and boundaries of an EJFA by cross-referencing Policy Map HZ-10 (Environmental Justice & Legacy Communities).

Applicability – Provides that this chapter applies only to applications for a development project located within or near an EJFA, that LUS has the authority to deny an application for failure to comply with the requirements of this chapter and exempts development projects that propose the development of a residential use if it does not require either a policy plan or zoning amendment.

Process and Review Procedures – Describes the parameters for process and review procedures for development projects within or near an EJFA, to include:

- Table 85-6 - EJFA notification and outreach requirements that include on-site posting for development projects, notification boundaries ranging from 1,300 feet to 2,640 feet, and the number of community meetings for defined land use categories.
- Provides that the land use category determination for a development project shall be determined by the LUS Director and that the determination is based on the type of land use application and/or anticipated environmental or operational impacts of the proposed development project.
- Provides submittal requirements for development projects, which include on-site posting requirements, extended public notification requirements, translation requirements for project notices and the requirements of an outreach plan for specific categories of development projects.
- Provides outreach plan contents, which include maps, list of interested parties to be notified,

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schedule of outreach meetings, use of interpreter services and responses to public input.

- Notification of community meetings for specific categories of development projects.

General Development and Use Standards – Specifies concise development standards pertaining to traffic routes and specific land uses, to prohibit:

- Traffic routes through a residential neighborhood.
- Hazardous waste facilities located within or near an EJFA.

The ordinance would apply prospectively and includes a provision that land use applications deemed complete prior to the effective date of the ordinance are exempt from the requirements of the chapter. This exemption would not excuse an applicant from complying with the requirements of the Policy Plan.

The ordinance is exempt from the requirements of the California Environmental Quality Act Guidelines pursuant to Sections 15060(b)(3), or, alternatively, 15308 of Title 14 of the California Code of Regulations because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and it can be determined with certainty that the ordinance will not have a significant effect on the environment. Additionally, the ordinance is intended to assure the enhancement and protection of the environment by promoting civic engagement in the public decision-making process and addressing environmental concerns associated with proposed development projects.

The Planning Commission conducted a review of the proposed ordinance on May 18, 2023, and continued the public hearing to June 22, 2023, with recommended changes. In addition, the Planning Commission directed staff to gather feedback from stakeholders. Following the meeting on May 18, 2023, staff amended the ordinance by adding an interested party and outreach plan definition, added an appeal process for category determinations, and added standards related to on-site posting requirements for specific categories of development projects in response to changes recommended by the Planning Commission

On June 22, 2023, the Planning Commission unanimously recommended approval of the ordinance to the Board of Supervisors with further amendments that include an exemption for residential use development projects that do not require either a policy plan or zoning amendment and added on-site posting requirements for all development projects that are subject to the ordinance. Following the Planning Commission's recommendation, development standards related to the use and parking of local or residential streets in Section 85.22.050(a) have been eliminated from the ordinance due to existing regulations governing use and access of highways in the manner provided by Title 5 of the San Bernardino County Code.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jason Searles, Supervising Deputy County Counsel, 387-5455) on August 9, 2022; Finance (Penelope Chang, Administrative Analyst, 387-5423) on August 14, 2023; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on August 25, 2023.

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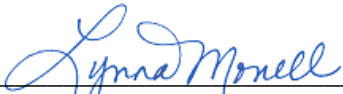
Record of Action of the Board of Supervisors
San Bernardino County

Hearing Opened
Public Comment: None

CONTINUED TO TUESDAY, OCTOBER 24, 2023

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: September 12, 2023



cc: File -
JLL 09/14/2023