

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING FULLERTON MUNICIPAL CODE SECTION 15.08.060 AND SECTION 15.23.050 REGARDING COURTESY NOTIFICATION AND AMENDING TABLE 15.17.075.D REGARDING BUILDING HEIGHT RESTRICTIONS RELATING TO THE HOUSING INCENTIVE OVERLAY ZONE PROGRAM

LRP-2024-0009

APPLICANT: CITY OF FULLERTON

WHEREAS California state law requires every city to have a General Plan, including a Housing Element, which complies with Government Code Section 65580 *et seq.* provisions.

WHEREAS the Housing Element must, among other things, identify sites sufficient to accommodate the City Regional Housing Needs Assessment (RHNA) as assigned by the Southern California Association of Governments.

WHEREAS the California Government Code and Fullerton Municipal Code Sections 15.72.040 and 15.72.050 authorize the Planning Commission to hold a public hearing to consider Fullerton Zoning Code amendments and recommend to City Council based on findings that the proposed amendments are consistent with state requirements.

WHEREAS the Housing Element identifies adopting an overlay zone (Housing Incentive Overlay Zone) that allows a property owner to develop multi-family housing on a parcel with a non-residential underlying zoning classification in exchange for providing a specified percentage of deed-restricted affordable housing units to help meet the City's RHNA goals.

WHEREAS the Housing Incentive Overlay Zone (HIOZ) Program facilitates the by-right development of multiple-family housing, including affordable housing, on designated parcels and implement state laws requiring cities to demonstrate available land capacity to accommodate projected City housing needs.

WHEREAS City Council held numerous public meetings and determined that the City should place the Housing Incentive Overlay Zone on Housing Inventory sites identified in the 6<sup>th</sup> Cycle Housing Element as well as many other sites in the City to provide additional housing opportunities.

WHEREAS City Council held duly noticed public hearings on this matter on January 7, 2025 and January 21, 2025.

WHEREAS City Council closed the public hearing and directed staff to revise the Housing Incentive Overlay Zone regulations to address building height and notification concerns.

WHEREAS City Council held a duly noticed public hearing on this matter on February 18, 2025 and staff presented revisions to FMC Sections 15.08.060 and 15.23.050 and Table 15.17.075.D to address the aforementioned concerns.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON ORDAINS AS FOLLOWS:

SECTION 1. Findings.

- A. The previous recitals are true and correct and incorporated as if fully set forth herein.
- B. Adoption of this Ordinance represents good planning practices as required by law as it creates consistency between the City General Plan, including the Community Development and Design portion, as well as with the Housing Element.

SECTION 2. City Council previously amended Fullerton Municipal Code Section 15.08.020 by adding the following new Special Zone Classification: HIOZ Housing Incentive Overlay Zone

SECTION 3. City Council amends Fullerton Municipal Code Section 15.08.060 to read as follows:

15.08.060. Review Procedures.

Proposals to create new dwelling units as part of a mixed-use development shall be subject to the following review procedures:

- A. No discretionary approval will be required if the development involves only the conversion of existing building area, and the number of units is less than seven;
- B. Approval of a Minor Site Plan or Minor Development Project will be required if the proposal involves new building area on the property and the number of units is less than seven, or if the project is within the HIOZ;
- C. Approval of a Major Site Plan or Major Development Project will be required if the proposal involves the creation by new construction or conversion of existing building area of seven or more dwelling units on the property.
- D. Courtesy notification. Staff shall mail written notification to property owners, tenants and businesses within a 300-foot radius of the subject property at the time of project application submittal to the City. Courtesy notification shall be required for any HIOZ project, regardless of number

of residential units.

SECTION 4. City Council amends Fullerton Municipal Code Section 15.23.050 to read as follows:

15.23.050. Procedures for approval of HIOZ projects.

For properties included in the HIOZ, projects shall be approved in accordance with the following procedures:

- A. Minor Site Plan Review. Projects developed in this zone that meet all objective development standards shall be subject to review as a Minor Site Plan pursuant to Chapter 15.47 (Site Plan Review) and approved ministerially by the Community Development Director. The design review criteria of Section 15.47.060 are not applicable to this approval.
- B. Major Site Plan Review. Projects developed in this zone that seek to exceed the height requirement or that wish to satisfy the required affordable housing by an alternative means as set forth in Section 15.23.065, shall be processed as a Major Site Plan review pursuant to Chapter 15.47 and shall be subject to approval by the Planning Commission. The design review criteria of Section 15.47.060 are not applicable to this approval.
- C. HIOZ projects that reserve at least twenty percent (20%) units for lower, very low, extremely low, or acutely low-income households shall be ministerially approved without the need for any Site Plan review. This provision shall not apply if any portion of the required affordable housing is satisfied by an alternative means as set forth in Section 15.23.065.
- D. Additional approvals. Projects that require approval for a lot line adjustment, consolidation of lots or subdivision in conjunction with approval pursuant to this chapter shall comply with Title 16 (Subdivisions).
- E. Provisions of approval. Projects shall comply with the applicable provisions of Chapter 15.76 (Procedures, Hearings, Notices, and Fees) for the expiration, renewal, extension, refiling and withdrawal of approval, unless superseded by state law.
- F. Courtesy notification. Staff shall mail written notification to property owners, tenants and businesses within a 300-foot radius of the subject property at the time of project application submittal to the City.

SECTION 5. City Council amends Fullerton Municipal Code Table 15.17.075.D to read as follows:

	Table 15.17.075.D Maximum Height Requirements for the HIOZ
	HIOZ
Maximum height limit for development on those portions of parcels within 100 feet of a property line with an R-1, R-1P, R-2P, or R-3P zone classification or historical designated property	<p>30 feet.</p> <p>is located down-slope from an adjacent R-1, R-1P, R-2P, or R-3P zoned property or historical designated property, the following maximum height limits apply as illustrated in Figure 3.</p> <ul style="list-style-type: none"> <li>- For a grade differential of less than 20 feet, a 30 feet maximum height limit applies.</li> <li>- For a grade differential of more than 20 feet, a 40 feet maximum height limit applies.</li> </ul>
	HIOZ
Maximum height limit for development on those portions of parcels greater than 100 feet from a property line with an R-1, R-1P, R-2P, or R-3P zone classification or historical designated property	65 feet

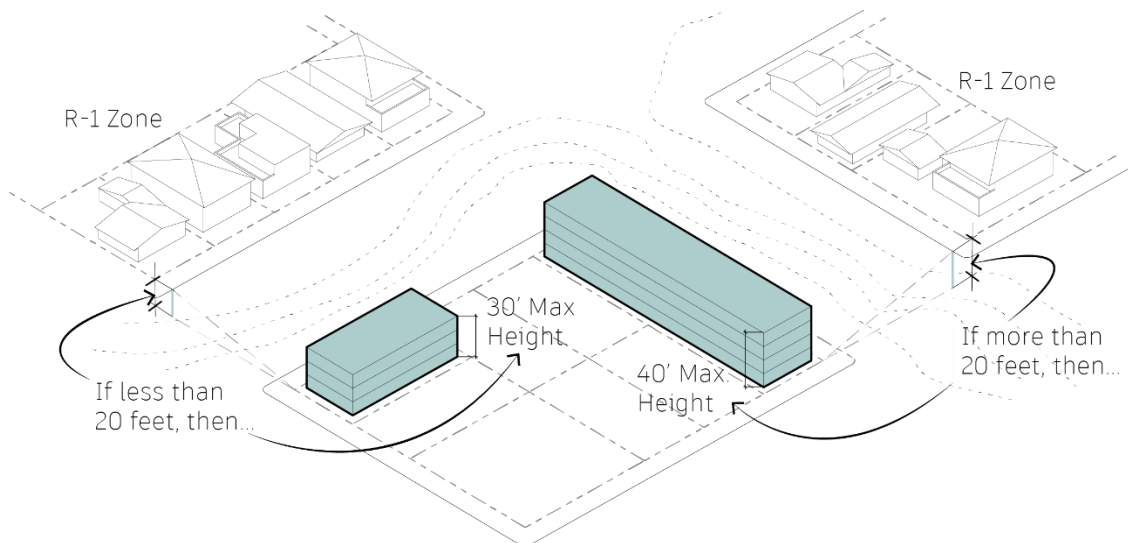


Figure 3. Maximum Building Height for Parcels within 100 feet of R-1, R-1P, R-2P, or R-3P Zones or historical designated property.

SECTION 6. City Council repeals or modifies any Fullerton Municipal Code provision or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, to that extent necessary to effect the provisions of this Ordinance.

SECTION 7. If any section, subsection, phrase or clause of this Ordinance is for any reason held unconstitutional, such decision will not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses may be declared unconstitutional.

SECTION 8. CEQA Guidelines Section 15282(s) reference the Statutory Exemption set forth in Government Code Section 65759 which exempts a project from CEQA review if it is an action necessary to bring a general plan or relevant mandatory element of the general plan into compliance pursuant to a court order as set forth in Section 65759. This exemption applies to the HIOZ Ordinance adoption as the stipulated judgment and order under a lawsuit brought by Californians for Homeownership, Inc. provides that Section 65759 applies to all actions required to implement the final judgment and order which includes adoption of the HIOZ Ordinance. Additionally, the HIOZ Ordinance Element adoption is exempt under Section 15061(b)(3) as it can be seen with certainty that there is no possibility that the adoption of this element may have a significant effect on the environment since no physical development is proposed at this time. City Council directs staff to file a Notice of Exemption.

SECTION 9. The City Clerk shall certify the passage and adoption of this Ordinance and published in the manner required by law. This Ordinance shall become effective thirty days from and after its passage.

SECTION 10. The documents and materials that constitute the record of proceedings on which these findings and approval are based on file in the City Clerk's Office at City Hall, 303 West Commonwealth Avenue, Fullerton, CA. The Custodian of Records is the City Clerk at (714) 738-6350.

ADOPTED BY THE FULLERTON CITY COUNCIL ON MARCH 4, 2025.

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Fred Jung  
Mayor

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ATTEST:

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Lucinda Williams, MMC  
City Clerk

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Date