

ORDINANCE NO. 16-1576U

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, EXTENDING A CITYWIDE MORATORIUM ON SINGLE PRICE OVERSTOCK/DISCOUNT STORES WITHIN THE CITY OF CARSON FOR A PERIOD OF TEN MONTHS AND FIFTEEN DAYS

The City Council of the City of Carson hereby ordains as follows:

SECTION 1. AUTHORITY AND EFFECT

A. The State Planning and Zoning Law (Cal. Gov't Code Sections 65000, et seq.) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health safety and welfare, and a balancing of property rights and the desires of the community and how its citizens envisions their city.

B. On December 15, 2015, Interim Urgency Ordinance No. 15-1571U was enacted pursuant to the authority conferred upon the City Council of the City of Carson by Government Code Section 65858 by a 5-0 vote.

C. Interim Urgency Ordinance No. 15-1571U enacted a 45-day moratorium on the establishment or expansion of single price overstock/discount stores.

D. On January 5, 2016, the City issued a "10-day report" describing the measures taken to alleviate the conditions that led to the adoption of Interim Urgency Ordinance No. 15-1571U, which date was at least ten (10) days prior to the adoption of this extension, as required by State law; and

E. Based on the foregoing, the City Council finds that there continues to be a current and immediate threat to the public health, safety, and welfare from the issuance of permits, business licenses, or other applicable approvals and entitlements for the establishment or expansion of single price overstock/discount stores prior to the City's completion of its study. Therefore, an extension of the temporary moratorium on the issuance of such permits, licenses, and entitlements is necessary to protect the public health, safety, and welfare.

F. In accordance with the authority granted to the City of Carson under Government Code Section 65858, subdivision (b), the City Council hereby extends the moratorium on the approval of use permits, variances, building permits, business licenses or other applicable approvals, licenses, permits, or other entitlements for the establishment or expansion of single price overstock/discount stores for an additional 10 months and 15 days following the original 45 day period of Ordinance No. 15-1571U.

SECTION 2. FINDINGS

This Ordinance is an extension of Interim Urgency Ordinance No. 15-1571U, and is adopted pursuant to the authority granted to the City of Carson by California Government Code Section 65858, and is for the immediate preservation of the public health, safety and welfare. The facts

constituting the urgency of this Ordinance are as follows; therefore, the City Council of the City of Carson hereby finds, determines, and declares that:

A. This moratorium is being extended in order to provide the City with enough time to thoroughly and adequately review, study, and revise the City's laws, rules, procedures, and fees related to single price overstock/discount stores, as well as to enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to establish or expand single price overstock/discount stores on the one hand, with the preservation of the health, safety, and welfare of the communities in the City of Carson on the other hand.

B. For the purposes of Interim Urgency Ordinance No. 15-1571U and this extension, a "single price overstock/discount stores" are establishments that sell a broad range of outlet, close-out, discontinued, liquidation, or overstock and general merchandise primarily at a single discount price and/or in the low and very low price ranges including, but not limited to, food items, alcoholic beverages, apparel and accessories, costume jewelry, notions and small wares, house wares, fountain refreshments, and toys.

C. Single price overstock/discount stores primarily offer extremely low priced items in large, minimally developed spaces discourage the upgrading of the existing area and its future economic vibrancy and are inconsistent with the goal of upgrading the commercial districts not only because such uses may offer minimal or no improvements to existing structures, but because they attract other bargain retail uses and discourage higher quality retail and commercial uses from locating nearby.

D. Should any large single price overstock/discount stores be permitted to locate within the commercial districts, such a development would constitute a current and immediate threat to the public health, safety and welfare in that such a development will start an irrevocable downward shift in the economic and aesthetic value of the area and thus act as a bar to the goals of the City of Carson General Plan.

E. The zoning code does not identify single price overstock/discount stores as permitted by right or as a conditional use, and only has the following retail sales categories: department stores, variety stores, and specialized stores for apparel, items for personal use, household items, plants and flowers, and supplies and small equipment for businesses, including antiques, indoor mini-mart, auction house, building materials other than ornamental brick, stone, tile, or flagstone. (incidental storage of sand, gravel, or rock limited to 2,000 tons total.), ornamental brick, stone, tile or flagstone, monuments, tombstones, statuary, feed and grain, secondhand store, pawn shop. Thus, single price overstock/discount stores are generally considered a retail use and have heretofore not been required to obtain a Conditional Use Permit. Therefore, the evolution in the retail industry in creating single price overstock/discount stores has outpaced Carson's Zoning Code, and the code must be updated to reflect current realities.

F. The City needs time to draft a proposed text amendment to the Zoning Code (and, if applicable, to the General Plan) to adequately address the location and operation of modern creating single price overstock/discount stores.

G. Provisions of the City's current land use plans, laws, rules, procedures and fees relating to creating single price overstock/discount stores need review, study, and revision in order to protect the health, safety and welfare of the citizens and visitors of the City of Carson.

H. The revisions described in Paragraph G, above, and the nature of the land use will likely result in the City amending, repealing, and/or adding provisions to the Carson Municipal Code, including the Zoning Code.

SECTION 3. MORATORIUM

During the effective period of this ordinance, no application for permit shall be accepted, no consideration of any application for permit shall be made, and no permit shall be issued by the City for the establishment or expansion of single price overstock/discount stores within the City until this ordinance has expired or has been repealed according to applicable law. Further, all processing of existing applications for permits shall be suspended immediately. "Expansion" as relates to a single price overstock/discount store means increasing the total size of the floor area of the business by 10% or more.

"Permit" means any City planning land use approvals, issuance of any business license tax permit including the transfer of a business license from one owner to another, and any building, grading, plumbing, electrical or mechanical permit issued by the City, whether the approval or issuance is discretionary or ministerial. The annual renewal of an existing business license and/or any permits necessary for the routine maintenance the buildings or sites shall not be considered issuance of a permit.

SECTION 4. REVIEW AND STUDY

During the period of this Ordinance, the Director of Community Development or his or her designee shall review, study and propose revisions as necessary to the City's laws, rules, procedures and fees related single price overstock/discount stores, to enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to establish or expand single price overstock/discount stores in the City, with the preservation of the health, safety and welfare of the communities surrounding the single price overstock/discount stores.

SECTION 5. EXCEPTION

If the City Council, based on substantial evidence presented in writing to the City Council at a duly noticed public meeting held no less than least 30 nor more than 90 City-working days after the City Clerk's receipt of that evidence, determines the City's receipt and consideration of an application for a permit to establish a single price overstock/discount stores within the City's jurisdiction is necessary for the preservation of the public's health and safety, then such application may be filed and processed in accordance with the City's then current regulations and authority, subject to the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and any other applicable requirements.

SECTION 6. URGENCY MEASURE

It is hereby declared this Ordinance is necessary as an urgency measure for the preservation of the public health, safety and welfare. The City Council finds that the current zoning regulations

and land use plans relating to single price overstock/discount stores do not adequately protect the peace, health, safety, and general welfare of the residents of the City or in communities around the City. The City Council finds that this interim urgency ordinance is necessary in order to ensure adequate regulation of single price overstock/discount stores, which regulations will serve to adequately and appropriately balance the rights of existing operators and future applicants who wish to operate single price overstock/discount stores on the one hand, with the preservation of the public health, safety, and welfare of the surrounding communities on the other hand. The facts constituting the urgency are:

1. The City of Carson does not currently have standards in its Municipal Code or Zoning Ordinance specifically governing single price overstock/discount stores within the City.

2. Based on the current Zoning Code provisions, single price overstock/discount stores are locating and expanding at locations and in a manner that negatively impacts the residents of Carson by limiting their retail options, and forcing Carson residents to travel greater distances to neighboring communities, thereby creating additional traffic, air quality, and noise impacts.

3. Unregulated single price overstock/discount stores contribute to limited shopping opportunities for Carson residents and may reduce City revenues as the per item price of these type of stores is low.

4. To permit single price overstock/discount stores to continue locating within the City without being subject to regulations that are consistent with the General Plan, and that take into account the impacts that such businesses have, constitutes a threat to the health, safety, and welfare.

5. Single price overstock/discount stores are likely to seek to locate in the City of Carson based on the lack of regulations, which will further exacerbate the impacts of such businesses.

6. Absent the adoption of this Interim Urgency Ordinance, the over-concentration of single price overstock/discount stores in the City of Carson would result in the negative and harmful secondary effects identified above.

7. Based on the negative and harmful secondary effects associated with improperly regulated single price overstock/discount stores, the current and immediate threat such secondary effects pose to the public health, safety, and welfare, and the potential zoning conflicts that are likely to be created by the establishment and operation of additional or expanded single price overstock/discount stores, it is necessary to extend the moratorium on the establishment and expansion creating single price overstock/discount stores in the City for a period of 10 months and 15 days.

8. This extension is necessary in order to continue to protect the City and its residents, businesses, and visitors from the potential health and safety impacts of single price overstock/discount stores operations, including air quality, noise, traffic, parking, and other impacts, and to preserve the quality of life and protect the health, safety, and welfare of the surrounding communities.

9. This extension is immediately required to preserve the public health, safety, and welfare, to make certain that permits for single price overstock/discount stores are issued only under adequate regulations. The extension of the moratorium will allow the City sufficient time to conclude the preparation of a comprehensive ordinance for the regulation of such activities. Allowing the moratorium to expire would create a serious threat to the orderly and effective implementation of any amendments to the Carson Municipal Code, which may be adopted by the City Council as a result of studying this issue, in that single price overstock/discount stores erected under the existing regulations may be in conflict with or frustrate the purposes of the City's General Plan.

SECTION 7. SEVERABILITY

The City Council hereby declares, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

SECTION 8. CEQA COMPLIANCE

Pursuant to Section 15001 of the California Environmental Quality Act ("CEQA") Guidelines, this interim urgency ordinance is exempt from CEQA based on the following:

(a) This ordinance is not a project within the meaning of CEQA Section 15378 because it has no potential for resulting in physical change to the environment, either directly or indirectly.

(b) This ordinance is also exempt pursuant to CEQA Section 15061(b)(3) since the proposed ordinance involves an interim urgency ordinance extending a 45-day temporary moratorium on single price overstock/discount stores by 10 months and 15 days and does not have the potential to significantly impact the environment.

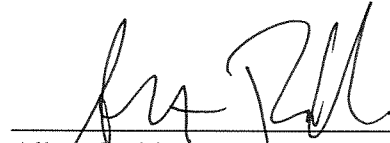
SECTION 9. PUBLICATION

The City Clerk shall certify as to the passage and adoption of this Interim Urgency Ordinance and shall cause the same to be published in a manner prescribed by law.

SECTION 10. EFFECTIVENESS OF ORDINANCE.

This Interim Urgency Ordinance shall become effective immediately upon adoption if adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for an additional 10 months and 15 days from the date of the expiration of the original 45-day Interim Urgency Ordinance, and shall expire on December 15, 2016.

PASSED, APPROVED and ADOPTED as an URGENCY ORDINANCE this 19th day of January, 2016.



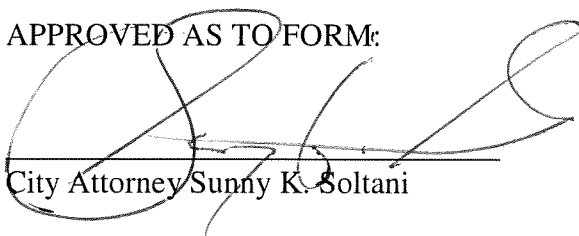
Albert Robles, Mayor
City of Carson, California

ATTEST:



Jim Dear, City Clerk
City of Carson, California

APPROVED AS TO FORM:



City Attorney Sunny K. Soltani

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Jim Dear, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing ordinance, being Ordinance No. 16-1576U was adopted by the City Council on an urgency basis at a meeting of said Council, held on the 19th day of January, 2016, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	Mayor Robles, Santarina, Davis-Holmes, Hilton, and Gause-Aldana
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None



City Clerk Jim Dear