

ORDINANCE NO. 22-2203U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO REQUIRE CONDITIONAL USE PERMITS FOR DEVELOPMENT OF WAREHOUSE OR LOGISTICS FACILITY BUILDING FLOOR SPACE IN EXCESS OF 5,000 SQUARE FEET IN THE INDUSTRIAL (MANUFACTURING-HEAVY AND MANUFACTURING-LIGHT) ZONES BY AMENDING (i) SECTION 9141.1 (USES PERMITTED) OF DIVISION 1 (USES PERMITTED) OF PART 4 (INDUSTRIAL ZONES), (ii) DIVISION 8 (SPECIAL REQUIREMENTS FOR CERTAIN USES) OF PART 4 (INDUSTRIAL ZONES), AND (iii) PART 9 (DEFINITIONS), OF CHAPTER 1 (ZONING) OF ARTICLE IX (PLANNING AND ZONING) OF THE CARSON MUNICIPAL CODE

WHEREAS, the California Constitution, in Article XI, Section 7, and the California Government Code, in Sections 65000 *et seq.*, 38774, 38775, and 65850(b), generally grant local governments the authority under their police powers to regulate land use. The City of Carson is a Charter City, and its general land use authority is set forth in Section 207 of the City's Charter; and

WHEREAS, Sections 313(A), 313(F), and 316 of the City's Charter expressly authorize the City Council to adopt an urgency ordinance for immediate preservation of the public peace, health or safety by two-thirds vote of the City Council; and

WHEREAS, Section 9141.1 of the City's Zoning Ordinance (Chapter 1 of Article IX of the Carson Municipal Code) sets forth the permitted uses in the City of Carson's industrial zones, including the M-H (Manufacturing-Heavy) and M-L (Manufacturing-Light) Zones; and

WHEREAS, the City Council finds that the current Zoning Ordinance does not provide an adequate basis for ensuring that development of new, replaced or expanded warehouse or logistics facility (also recognized as fulfillment center) land uses is permitted only in a manner that protects the public from adverse impacts to public peace, health and safety; and

WHEREAS, increasingly, industrial buildings such as warehouses are built or used for short-term, high-cube storage, characterized by fast intake and rapid shipment of goods driven by customer demand, in contrast to traditional warehouse uses, which are characterized more so by static long-term storage of manufactured goods. This trend results in uses that generate more vehicles and trips accessing the facility, with associated increases in potential impacts to safety and convenience of traffic, parking, circulation, air quality, and street quality, among other impacts; and

WHEREAS, truck and other vehicle trips generated by warehouses and logistics facilities have direct impacts on the community, including traffic, air quality, noise, vibrations, public health, and increased maintenance costs; and

WHEREAS, the City's location and proximity to major infrastructure and transportation facilities such as ports, airports, rail, and freeways make Carson a desirable location for development of warehouses and logistics businesses; and

WHEREAS, the City Council, at its January 21, 2021 meeting, gave direction to Community Development staff to proceed with the General Plan Update using the "Preferred Plan," which restricts or limits warehousing and logistics facilities in some areas of the City where these uses are currently allowed. In addition, truck and container parking and storage uses were determined to be undesirable uses and will be prohibited by the 2040 General Plan. The proposed zone text amendment is consistent with both the existing General Plan and the anticipated updated General Plan; and

WHEREAS, Sections 313(A), 313(F), and 316 of the City's Charter expressly authorize the City Council to adopt, by two-thirds vote of the City Council, an urgency ordinance for immediate preservation of the public peace, health or safety, which ordinance may be introduced and adopted at one and the same meeting and may take effect immediately; and

WHEREAS, the City Council finds this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City within the meaning of Charter Section 313(F) because in the absence of amendments to CMC Section 9141.1, projects involving development (which as used in this Urgency Ordinance means and includes development of (i) new buildings on vacant lots, (ii) additions to existing buildings or addition of new buildings to existing facilities, and/or (iii) new buildings replacing existing buildings to be demolished on the same lots, regardless of the size of the new building(s) relative to the building(s) to be demolished) of significant warehouse or logistics facility building floor space in the M-H or M-L zones will continue to be permitted unregulated or under-regulated, and will have adverse effects on the public peace, health and safety of the City's residents.

Currently, the City's Zoning Ordinance generally does not require a conditional use permit for industrial warehouses or logistics facilities in the M-H or M-L zones. As a result, projects for development of such facilities, which are often quite large and/or may involve high amounts or rates of truck traffic, vehicle trips, parking demand, fuel or other emissions, noise, and/or other potential adverse impacts, have recently been processed subject to approval of at most a Site Plan and Design Overlay Review ("DOR") pursuant to CMC 9172.23, for projects located in the City's Design Overlay Zone, whereas projects not located in the Design Overlay Zone are not subject to a DOR approval. Even where a DOR approval is required, if the project is consistent with the applicable General Plan land use designation and any applicable specific plan and does not require another entitlement that renders the project a discretionary project within the meaning of CEQA, then CEQA review will be inapplicable, and as a result the City will lack authority to impose conditions of approval that constitute environmental mitigation measures pursuant to CEQA on the project. *See McCorkle Eastside Neighborhood Grp. v. City of St. Helena*, 31 Cal. App. 5th 80 (2019).

Because of the lack of regulatory control the City currently has over such projects and the location of the City making it a prime destination for same, imposition of a conditional use permit requirement restoring the City's regulatory control over such projects, including but not limited to

the authority to conduct CEQA review and impose CEQA mitigation measures as conditions of project approval, is necessary for the immediate preservation of the public peace, health, and safety, as without it there is a significant risk the City will soon be legally obligated to approve project(s) without having authority to impose project conditions of approval that are essential to mitigate adverse environmental and other impacts to the community that would occur absent such conditions of approval. Aside from the environmental impact mitigation measures, such a conditional use permit requirement will also help ensure that the City has sufficient regulatory control to prevent and protect against adverse aesthetic effects and/or public nuisance conditions associated with the impacts that such uses may otherwise have on the streets, air quality and noise within the City; and

WHEREAS, notwithstanding the foregoing, the City Council by this ordinance does not intend to require a conditional use permit for projects for development of less than or equal to 5,000 square feet of warehouse or logistics facility building floor space, because such projects generally entail only the addition of new ancillary structures to existing warehouses or logistics facilities and do not have the potential impacts that would warrant a conditional use permit requirement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS. The foregoing recitals are true and correct, and are incorporated herein as findings of fact.

SECTION 2. CEQA. The City Council has determined that adoption of this Ordinance does not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA), because it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. 14 CCR §§15378, 15060(c)(2)-(3). Without limitation, CEQA Guidelines Section 15378(b)(5) excludes “[o]rganizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment” from CEQA’s definition of “project.” Furthermore, even if the proposed zone text amendment were a “project,” it would be exempt from environmental review under CEQA Guidelines Section 15061(b)(3)’s “general rule” that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Here, it can be seen with certainty that there is no possibility that the proposed zone text amendment, in and of itself, will have a significant effect on the environment. The sole purpose of the proposed zone text amendment is to impose a conditional use permit requirement on the subject uses; such uses would then be subject to CEQA review on a project-by-project basis prior to issuance of any conditional use permit authorizing or approving any specific project that may be proposed.

SECTION 3. CODE AMENDMENT. Section 9141.1 (Uses Permitted) of Division 1 (Uses Permitted) of Part 4 (Industrial Zones) of Chapter 1 (Zoning) of Article IX (Planning and Zoning) of the Carson Municipal Code is hereby amended to add a row to the permitted uses table, as the new first row under the section entitled “Industrial Activities Involving the Following Processes,” to read in its entirety as follows (deletions shown in ~~strike through~~, additions shown in ***bold, italics, underlined***):

	ZONES	
	ML	MH
Industrial Activities Involving the Following Processes:		
<u><i>Development of new warehouse or logistics facilities in excess of 5,000 floor space square feet</i></u>	<u><i>C</i></u>	<u><i>C</i></u>

SECTION 4. CODE AMENDMENT. Division 8 (Special Requirements for Certain Uses) of Part 4 (Industrial Zones) of Chapter 1 (Zoning) of Article IX (Planning and Zoning) of the Carson Municipal Code is hereby amended to add a new Section 9148.9.1 (Warehousing and Logistics Facilities) to read in its entirety as follows:

“9148.9.1 Warehouses and Logistics Facilities.

A. Purpose and Applicability. These provisions are established to ensure the safe and orderly use of land for warehousing and logistics facilities and to minimize the effect of warehousing and logistic facilities on surrounding properties or the community.

B. Application Requirements.

In addition to any other application requirements, as determined by the Director, this Code establishes, all of the following shall be submitted with any application for a conditional use permit for a warehousing and logistics facility involving construction of new building floor space in excess of 5,000 square feet, before the application may be accepted by the Director:

1. Traffic Circulation Plan including:
 - a. Location and dimensions of all truck bays;
 - b. Location and dimensions of all driveways providing ingress and egress identifying truck parking areas that will be served by each driveway;
 - c. Maximum number of vehicles accessing and exiting facility;
 - d. Identification of routes to be used by vehicles accessing and exiting facility for each of the following time periods:
 - i. 4 am to 10 am weekdays;
 - ii. 10 am to 3 pm weekdays;
 - iii. 3 pm to 7 pm weekdays;
 - iv. 8 am to 4 pm Saturdays.
2. Security Plan including:

- a. A manager or employee shall be on the site during all business hours;
- b. A centrally monitored electronic security system, approved by the Los Angeles County Sheriff's Department, shall be used at all times;
- c. A check-in and check-out procedure shall be instituted, requiring, at a minimum, that each visitor to the facility provide his/her name, address, driver's license or other legal identification number, vehicle license, vehicle type, and time in and out."

SECTION 5. CODE AMENDMENT. Part 9 (Definitions) of Chapter 1 (Zoning) of Article IX (Planning and Zoning) of the Carson Municipal Code is hereby amended to add a new Section 9191.339 (Logistics Facility) to read in its entirety as follows:

"9191.339 Logistics facility.

Shall mean any warehouse or other industrial building used for storage and transportation of goods, distribution facilities, or logistics services such as but not limited to e-commerce, material handling, production, packaging, inventory, transportation, storage, warehousing or warehouse, freight forwarding, deposit, storage, or safekeeping."

SECTION 6. CODE AMENDMENT. Section 9191.746 (Warehouse) of Part 9 (Definitions) of Chapter 1 (Zoning) of Article IX (Planning and Zoning) of the Carson Municipal Code is hereby amended to read in its entirety as follows (deletions shown in ~~strikethrough~~, additions shown in ***bold, italics, underlined***):

"9191.746 Warehouse

Shall mean a ~~building or portion of a building used primarily for the deposit, storage or safekeeping of goods regardless of whether the goods are offered for sale.~~

Shall mean an industrial building used for the freight forwarding, deposit, storage, safekeeping, or manufacture of goods or parts thereof, regardless of whether the goods are offered for sale. Warehouses are used by manufacturers, importers, exporters, wholesalers, transport businesses, customs, etc. They are usually large buildings with loading docks to load and unload goods from trucks.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Urgency ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 8. EFFECTIVE DATE. This ordinance shall take effect immediately, pursuant to the authority conferred upon the City by City of Carson Charter Sections 313(F) and 316.

SECTION 9. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

[signatures on the following page]

PASSED, APPROVED and ADOPTED as an URGENCY ORDINANCE at a regular meeting of the City Council on this 5th day of April 2022.

ATTEST:

Lula Davis-Holmes, Mayor

Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney