

ORDINANCE NO. 18-1825

**AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA,
ADOPTING A TEXT AMENDMENT TO THE ZONING ORDINANCE,
AMENDING SECTION 9141.1 (USES PERMITTED) OF PART 4
(INDUSTRIAL ZONES), OF ARTICLE IX (PLANNING AND ZONING)
OF THE CARSON MUNICIPAL CODE REGARDING COMMERCIAL
CANNABIS**

WHEREAS, the California Constitution grants local governments in Article XI, Section 7 the authority under their police powers to regulate land use; and

WHEREAS, On November 21, 2017 the Carson City Council adopted Ordinance No. 17-1637 to add Chapter 15 (Commercial Cannabis Operations Regulatory Program) to Article VI of the Carson Municipal Code, which authorizes no more than four (4) commercial cannabis centers, which may include indoor cultivation, mixed-light cultivation, manufacturing, testing and/or (wholesale) distribution; and

WHEREAS, California state law under Proposition 64 provides that cities may regulate or enforce local commercial cannabis regulations through local code, and otherwise commercial cannabis uses are allowed pursuant to a state commercial cannabis license; and

WHEREAS, Carson Ordinance No. 17-1637 provides for the issuance of local commercial cannabis permits for businesses located in the commercial and industrial zones of the City; and

WHEREAS, the Zoning Code does not have express provisions governing the location and operation of Commercial Cannabis uses; and

WHEREAS, Focal Strategic Investments, LLC, a California limited liability company (“Developer”), desires to undertake the development of approximately 0.66 net acres of real property with an address of 17505 South Main Street, City of Carson, Assessor Parcel No. 7339-003-900 (“Site”); and

WHEREAS, Developer proposes to develop the Site with two one-story buildings totaling approximately 13,557 sq. ft. to be used for commercial cannabis operations including cultivation, manufacturing, and storage of residual materials from cannabis cultivation (“Project”); and

WHEREAS, the Developer has made a request for Zone Text Amendment No. 29-2018 (“ZTA”) to expressly allow cannabis uses within industrial zones consistent with the provisions of City of Carson Ordinance No. 17-1637 (which allows four cannabis centers in the City as long as they are at least 750’ from sensitive uses identified in the Ordinance) upon approval of a development agreement to allow the specific proposed cannabis uses; and

WHEREAS, with approval of the ZTA, the Project will be expressly consistent with the Carson Zoning Ordinance and effectuate the establishment of a commercial cannabis use at the proposed site with approval of a development agreement; and

WHEREAS, the proposed ordinance is consistent with General Plan Policy LU-6.7 to attract land uses that generate revenue to the City of Carson, while maintaining a balance of other community needs such as housing, open space, and public facilities. Commercial Cannabis uses meet the needs of the community and generate revenue to the City; and

WHEREAS, the proposed ordinance is consistent with General Plan Policy LU-7.1 to review and amend if necessary, the City's Zoning Ordinance to ensure the compatibility of uses allowed within each zoning district. The proposed amendment establishes a use classification for Commercial Cannabis to ensure the express compatibility of Commercial Cannabis allowed within each zoning district; and

WHEREAS, on October 30, 2018, the Planning Commission, held a duly noticed public hearing, as required by law, on the ZTA, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed ZTA; and closed the public hearing and recommended to the City Council no approval of the ZTA on a 4-5 vote; and

WHEREAS, the City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to both the exemption provided by Section 26055(h) of the Business and Professions Code, as well as pursuant to the provisions of Section 15060(c)(2-3) of the CEQA Guidelines, and provisions of Section 15061(b)(3) of the CEQA Guidelines in the unlikely event that the Zone Text Amendment No. 29-2018 was to be considered a project for purposes of CEQA analysis, it can be seen with certainty that Zone Text Amendment No. 29-2018 will not result in a direct or reasonably foreseeable indirect physical change in the environment, and that there is no possibility of a significant effect on the environment because of Zone Text Amendment No. 29-2018. CEQA will be evaluated as part of a required development agreement necessary for any proposed commercial cannabis use in the commercial zones, pursuant to Chapter 15 (Commercial Cannabis Operations Regulatory Program) of Article VI of the Carson Municipal Code.

WHEREAS, the City Council on November 20, 2018 in Resolution No. 18-159 adopted and certified an Initial Study and a Mitigated Negative Declaration ("IS/MND") and an associated Mitigation Monitoring and Reporting Program ("MMRP"), and determined that for purposes of the California Environmental Quality Act, the proposed Project will not have a significant effect on the environment because the proposed mitigation measures in the IS/MND and the adoption of the MMRP reduce all potentially significant impact to less than significant; and

WHEREAS, on November 20, 2018, the City Council conducted a duly noticed public hearing on this Ordinance, all testimony received was made a part of the public record, and the City Council has duly considered all information presented to it; and

WHEREAS, the City Council has determined that the proposed ZTA is consistent with the General Plan and applicable City Ordinances, and based on its own independent judgment, finds that Zone Text Amendment No. 29-2018 promotes and protects the health, safety, welfare, and quality of life of City residents, including protection against nuisances; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The recitals set forth above are all true and correct and are incorporated herein by this reference.

Section 2. 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 by adding underlined text and by subtracting strike-through text, with all other text remaining unchanged as follows:

“USES PERMITTED IN INDUSTRIAL ZONES

Legend	
X.	Automatically permitted use.
L.	Automatically permitted use provided special limitations and requirements are satisfied as noted herein or in Division 8 of this Part.
D.	Use permitted subject to the approval of the Director.
LD.	Use permitted provided special limitations and requirements are satisfied as noted herein, in Division 8 of this Part and in Division 8 of Part 2, and subject to the approval of the Director.
C.	Use permitted upon approval of a conditional use permit.
CC.	Use permitted upon approval of the City

	Council as prescribed, under other provisions of the Carson Municipal Code.
	All commercial uses permitted by this Part shall be subject to the requirements contained in CMC 9172.23, Site Plan and Design Review, except temporary uses. (See CMC 9131.1). (Ord. 84-704)
<u>DA.</u>	<u>Use permitted upon approval of a Development Agreement by the City Council subject to the requirements contained in CMC Chapter 15, Article VI</u>

Note: In the following list, industrial activities are classified by product, by materials used, by use, and by processes employed. Since many industrial uses are complex in nature, it is necessary to consider all ~~three~~ (3) of the above-mentioned elements in classifying any specific industrial use. Uncertainties as to the proper classification for a specific use are to be resolved through Interpretations adopted in accordance with CMC 9172.24.

...

ZONES

	ML	MH
<u>Commercial Cannabis (See CMC Chapter 15, Article VI)</u>	<u>DA</u>	<u>DA</u>

”

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this 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 5. 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.

Section 6. This ordinance shall be in full force and effect thirty (30) days after its passage.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2018.

Mayor Albert Robles

ATTEST:

City Clerk Donesia Gause-Aldana, CMC

APPROVED AS TO FORM:

City Attorney Sunny K. Soltani