

ORDINANCE NO. 19-1938

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 9138.19 (DISCOUNT STORES) OF DIVISION 8 (SPECIAL REQUIREMENTS FOR CERTAIN USES) OF PART 3 (COMMERCIAL ZONES) OF CHAPTER 1 (ZONING) OF ARTICLE IX (PLANNING AND ZONING) OF THE CARSON MUNICIPAL CODE REGARDING DISCOUNT STORES

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City has the police power to regulate land uses within its jurisdictional boundaries; and

WHEREAS, on November 1, 2016, the City Council adopted Ordinance No. 19-1938, which amended the City's Zoning Ordinance to establish land use regulations applicable to discount stores; and

WHEREAS, among other things, the adoption of Ordinance No. 19-1938 added Section 9138.19 (Discount Stores) to the City's Zoning Ordinance. Section 9138.19 contains, among other provisions, a "minimum separation" requirement which provides that new discount stores shall not be located less than one-half (1/2) of a mile from an existing discount store; and

WHEREAS, discount store chains have a tendency to target poor communities. For instance, Dollar General, a leading discount store chain, has acknowledged that its core customers earn around \$20,000 per year below the national median income; and

WHEREAS, discount store chains often intentionally cluster multiple stores in low-income areas, a business strategy which discourages new full-service grocery stores from opening. The business model is built on saturation, in that a concentration of discount stores in a given area will decrease or eliminate the incentive for full-service grocery stores to locate in that area; and

WHEREAS, unlike full-service grocery stores, discount stores generally do not offer fresh produce, precluding availability of healthy food options in areas saturated by discount stores; and

WHEREAS, discount stores, despite not offering fresh produce, can pose serious competition issues to full-service grocery stores, because discount stores frequently offer household products and daily essentials, which are some of the higher profit-margin items sold by full-service grocers, at lower prices than such grocers, thereby putting economic pressure on grocers to lower prices to levels that reduce or eliminate their profit margin. As a result, the addition of new discount stores into an area where full-service grocery stores are operating can threaten the ability of existing grocers to continue operating in the area; and

WHEREAS, limiting the ability of new discount stores to commence operation within one mile of an existing discount store in the City will facilitate the City's ability to attract and/or retain full-service grocers in such areas, thereby promoting the ability of the residents of such areas to gain and/or retain convenient access to full-service grocers or other local grocers or businesses that sell fresh produce or provide other healthy food options. This limitation will have

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EXHIBIT NO. 4

Ordinance No. 19-1938

Page 1

the effect of improving the overall quality of the diet of the residents of such areas, thereby protecting and promoting the public health and welfare of such residents, without interfering with the ability of existing discount stores to continue operating; and

WHEREAS, based on the foregoing, the City Council desires and intends to amend the minimum separation requirement applicable to discount stores, as set forth in Section 9138.19(C) of the City's Zoning Ordinance, to increase the minimum required separation distance to one mile.

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

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

SECTION 2. The City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because: (1) it does not constitute a "project" under CEQA Guidelines Section 15378(b)(2) in that it constitutes general policy and procedure making; (2) it does not constitute a "project" under CEQA Guidelines Section 15378(b)(5) in that it has no potential for resulting in physical change to the environment, either directly or indirectly; and (3) in the alternative, it is exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2), since the activity will not result in direct or reasonably foreseeable indirect physical change in the environment, and Section 15061(b)(3), since it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment, because the Ordinance merely regulates the placement or location of new discount stores. The Planning Division is hereby directed to file a Notice of Exemption in accordance with the requirements of CEQA.

SECTION 3. The City Council finds that this Ordinance is consistent with the City's General Plan, including with respect to General Plan Policies LU-6.7 and LU-7.1, and all applicable specific plans.

SECTION 4. Section 9138.19 (Discount Stores) of Division 8 (Special Requirements for Certain Uses) of Part 3 (Commercial Zones) 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 (additions shown in ***bold italics***, deletions shown in ~~double-strikethrough~~):

"9138.19 Discount Stores.

A. Use Classification. Retail 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.

B. Minimum Lot Area. Discount stores shall not be permitted on lots less than six (6) acres of net area.

C. Minimum Separation Requirement. New discount stores shall not be less than one-half (1/2) mile from an existing discount store.

D. Hours of Operation. Business hours, including truck loading hours, shall be limited to 8:00 a.m. to 9:00 p.m., seven (7) days a week.

E. Parking Requirement. One (1) space per two hundred fifty (250) square feet of gross floor area.”

SECTION 5. SEVERABILITY. 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 6. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 7. 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.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this ____ day of _____, 2019.

ALBERT ROBLES, Mayor

ATTEST:

DONESIA GAUSE-ALDANA, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney