

**CITY OF CARSON**  
**PLANNING COMMISSION**  
**RESOLUTION NO. 21-2707**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING THAT THE CITY COUNCIL ADOPT “ORDINANCE NO. 21-2113, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING 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 REGARDING PERMITTED USES IN THE INDUSTRIAL (MANUFACTURING-HEAVY AND MANUFACTURING-LIGHT) ZONES FOR REGULATED AND NONREGULATED SUBSTANCES” (ZONE TEXT AMENDMENT NO. 187-2021)**

**WHEREAS**, pursuant to a letter dated February 21, 2020 and a response letter dated March 20, 2021 (copies of which are attached to the staff report submitted herewith and incorporated herein by reference), City received a request from John P. Kinsey, Esq., on behalf of Inland Star Distribution Centers, Inc., pursuant to Carson Municipal Code (“CMC”) Section 9172.11(A), for a text amendment to CMC Section 9141.1, a part of the Carson Zoning Ordinance (Chapter 1 of Article IX of the CMC), regarding the permitted uses for storage of materials in the City’s industrial zones (the “Request”); and

**WHEREAS**, on April 13, 2021, the Planning Commission held a duly noticed public hearing as required by law to consider the Request.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:**

**SECTION 1.** The Planning Commission finds that the foregoing recitals are true and correct, and incorporates them herein by reference.

**SECTION 2.** The Planning Commission finds as follows:

- a) The Planning Commission has considered the Request in accordance with CMC Section 9172.11(A). The request seeks an update and clarification to CMC Section 9141.1 with respect to the permissible uses for storage of particular materials in the City’s industrial zones, which are the Manufacturing-Heavy (“M-H”) and Manufacturing-Light (“M-L”) zones. More specifically, Request states that “[t]here are any number of ways the City would amend the text of Section 9141.1 to provide clarity to the regulated public. However, the simplest way to strike a balance between achieving the City’s objectives of promoting health, safety and welfare and allowing storage facilities sufficient flexibility to engage in standard business practices would

be to modify Section 9141.1 to allow storage facilities as a “by right” land use so long as CalARP-regulated materials are not stored onsite. If any landowner seeks to store CalARP-regulated materials, such use would require a Conditional Use Permit. [¶] Alternatively, the City could specifically authorize the storage of materials that are typically used in the manufacturing process for other industrial ‘by right’ uses.”

- b) There are several categories of nonhazardous materials that, under the existing CMC §9141.1, are listed as automatically permitted for manufacturing uses in the industrial zones, but that are not listed for storage uses in the industrial zones. The City’s zoning ordinance provides that all uses not expressly permitted are prohibited (CMC §9141.3). Accordingly, storage of these categories of materials is currently prohibited in the City’s industrial zones, notwithstanding that such uses do not present any danger to the public arising from the nature of the materials stored, and notwithstanding that manufacturing uses involving such materials necessarily must involve storage of the materials for at least some period of time. Accordingly, the Commission finds that insofar as the Request seeks amendment of the CMC to expand the list of permissible industrial storage uses in CMC §9141.1 to encompass the aforementioned categories of nonhazardous materials, the requested change is advisable as an improvement to the Zoning Ordinance and would benefit the overall public health, safety and welfare of the City, subject to addition of a caveat limiting the new automatically permitted storage uses to indoor storage only, with outdoor storage subject to Director approval to avoid potential adverse aesthetic impacts and public nuisance conditions. However, to the extent the Request goes further and seeks amendment to CMC §9141.1 to provide that all storage of *any and all* non-CalARP-regulated materials is an automatically permitted use in the industrial zones, the requested changes are not recommended by the Commission, because there could be some categories of materials that if permitted for storage in industrial zones without City regulatory oversight could have adverse impacts on the public health, safety or welfare, and such category is too broad to justify relinquishment of City regulatory control without risking adverse consequences to public health, safety or welfare resulting therefrom.
- c) With respect to the portion of the Request that suggests, “[i]f any landowner seeks to store CalARP-regulated materials, such use would require a Conditional Use Permit,” such changes are not recommended by the Commission. Few if any CalARP-regulated materials are currently encompassed by the categories of permissible uses listed in CMC §9141.1. Where categories potentially encompassing such materials are listed, they are generally prohibited uses in M-L zones and may be permitted subject to a CUP in M-H zones, but the vast majority of the universe of CalARP-regulated materials is not listed or encompassed at all, meaning industrial uses involving such materials are prohibited uses. Providing that all industrial storage uses involving CalARP-regulated materials are permissible uses subject to approval of a conditional use permit would represent a significant loosening of the City’s existing land use restrictions, and one that is not justified when considering the potential adverse impacts of such action on public health and safety. CalARP-regulated materials are designated as such by state law because they have hazardous qualities such as being toxic, combustible, corrosive and/or flammable, and are potentially harmful to human health if accidentally released. The Commission considers protection of public health and safety its paramount concern, and therefore has a strong interest in minimizing the presence of these materials in the community to

ensure the protection of public health and safety. Accordingly, the Commission does not and will not recommend any change to the CMC that loosens the City's existing land use restrictions pertaining to CalARP-regulated materials. Instead, the Commission recommends strengthening these restrictions to provide that all industrial uses involving substances listed in the relevant provisions of the CalARP-regulations, irrespective of quantity, as detailed in the definition of "Regulated Substances" set forth in the proposed ordinance attached hereto as Exhibit "A" ("Zone Text Amendment No. 187-2021"), are prohibited uses. This recommendation constitutes only an incremental change in the City's existing land use regulations, applying only to the extent any uses involving Regulated Substances are currently considered permissible uses subject to a conditional use permit in M-H zones as described above, and would serve to better protect the City's residents and guests from the dangers caused by Regulated Substances. Lawfully-established existing uses involving Regulated Substances in the City would be made legal, nonconforming uses, subject to applicable provisions of Part 8 of the Zoning Ordinance.

- d) Zone Text Amendment No. 187-2021 would amend the Zoning Ordinance in a manner that deviates from that suggested by the Request and as necessary to effectuate the Commission's findings and recommendations described above. Zone Text Amendment No. 187-2021 represents a blend of changes to CMC Section 9141.1 that implement components of the Request, insofar as the same are recommended by the Commission and in the best interest of the public health, safety and welfare, together with different or additional changes that are related to the issues raised by the Request but which the Commission has determined would better serve the public health, safety and welfare pertaining to such issues. Zone Text Amendment No. 187-2021 is consistent with the General Plan of the City and all applicable specific plans, and is recommended as a necessary update to and clarification of CMC Section 9141.1, as well as a means of strengthening protection of public health and safety and promoting the overall public welfare by making the City's industrial land use regulations more logical and practical so as to facilitate the ability of manufacturing and storage businesses in the City to legally engage in safe, standard business activities without facing unnecessary land use restrictions or prohibitions.

**SECTION 3.** The Planning Commission finds 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.

**SECTION 4.** The Planning Commission of the City of Carson, pursuant to the findings noted above, hereby recommends that the City Council approve Zone Text Amendment No. 187-2021, which is attached hereto as Exhibit "A" and incorporated herein by reference. However, in connection with and as part of this recommendation, the Planning Commission, cognizant of the

potential effect of Zone Text Amendment No. 187-2021 on lawfully-established existing businesses involving Regulated Substances in the City (i.e., rendering them legal nonconforming uses), sees fit to and hereby does convey a “note” to the City Council, recommending that the City Council carefully consider those effects and possible ways to mitigate or alleviate any adverse impacts thereof on such businesses prior to or in connection with adoption of Zone Text Amendment No. 187-2021.

**SECTION 5.** This decision of the Planning Commission shall become effective and final 15 days from the date of the action, in accordance with Section 9173.33 of the City’s Zoning Ordinance, unless an appeal is filed in accordance with Section 9173.4 of the City’s Zoning Ordinance.

**SECTION 6.** The Secretary of the Planning Commission shall certify to the adoption of the Resolution, and shall transmit it to the City Council.

**PASSED, APPROVED and ADOPTED** this 13<sup>th</sup> day of April, 2021.

Charles Thomas (COVID Signature)  

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**CHAIRMAN**

**ATTEST:**

*Lucille Sandoval* (COVID Signature)  

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**SECRETARY**

## **EXHIBIT “A”**

[proposed ordinance – to be attached]