



## Legislation Details (With Text)

<b>File #:</b>	2022-238	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Consent	<b>Status:</b>		Agenda Ready	
<b>File created:</b>	3/22/2022	<b>In control:</b>		City Council	
<b>On agenda:</b>	4/5/2022	<b>Final action:</b>			
<b>Title:</b>	CONSIDER ADOPTING AN URGENCY ORDINANCE NO. 22-2223U ESTABLISHING REGULATIONS TO REQUIRE CONDITIONAL USE PERMITS FOR WAREHOUSING AND LOGISTICS FACILITIES INVOLVING NEW CONSTRUCTION IN EXCESS OF 5,000 SQUARE FEET IN THE INDUSTRIAL (MANUFACTURING-HEAVY AND MANUFACTURING-LIGHT) ZONES (CITY COUNCIL)				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. EXHIBIT NO. 1-DRAFT INDUSTRIAL CUP ORDINANCE_rev (brj 3.24)				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

## Report to Mayor and City Council

Tuesday, April 05, 2022

Discussion

### SUBJECT:

**CONSIDER ADOPTING AN URGENCY ORDINANCE NO. 22-2223U ESTABLISHING REGULATIONS TO REQUIRE CONDITIONAL USE PERMITS FOR WAREHOUSING AND LOGISTICS FACILITIES INVOLVING NEW CONSTRUCTION IN EXCESS OF 5,000 SQUARE FEET IN THE INDUSTRIAL (MANUFACTURING-HEAVY AND MANUFACTURING-LIGHT) ZONES (CITY COUNCIL)**

### I. SUMMARY

Currently, the City's Zoning Ordinance generally does not require a conditional use permit for industrial warehousing and logistics facilities in the M-H or M-L zones. As a result, projects for construction of such facilities, which are often quite large and potentially involve high amounts of truck traffic and 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 and are required to be approved by the Community Development Director. Even

where a DOR approval is required, if the project is consistent with the applicable General Plan land use designation and any applicable zoning code and does not require another entitlement that renders the project a discretionary project within the meaning of the California Environmental Quality Act (CEQA), then CEQA review will be inapplicable. As a result, the City lacks 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). The City has received and processed numerous applications for such projects in recent months, several of which have already been approved and several of which remain pending.

Due the City's lack of regulatory control 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 if 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. It should be noted that projects requiring approval of a Specific Plan and associated environmental analysis are not subject to this urgency ordinance.

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.

## **II. RECOMMENDATION**

Recommendation:

1. ADOPT, by a two-thirds affirmative vote of the City Council, Urgency Ordinance No. 22-2223U, "An Urgency Ordinance of the City Council of the City of Carson, California, to require Conditional Use Permits for warehousing and logistics facilities involving new construction 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"

## **III. ALTERNATIVES**

TAKE another action deemed appropriate by the City Council consistent with applicable laws.

## **IV. BACKGROUND**

In December 2004, the City Council adopted Ordinance No. 04-1308, to prohibit truck yards within the ML (Manufacturing Light) zone; to require a conditional use permit (CUP) for truck yards in the MH (Manufacturing Heavy) zone; and to require a CUP for new truck terminals in the ML and MH zones. The ordinance also included definitions and development standards for truck yards and truck terminals and provided a termination date and/or compliance for such uses within a specified time. The ordinance required that existing truck terminals obtain a conditional use permit within five years from adoption of the ordinance. Since that time sixteen (16) CUPs have been issued for truck related uses in the MH zone. Despite the CUP requirement and defined uses, trucking-related businesses have proliferated under the auspice of undefined uses such warehousing or logistics facilities.

On March 21, 2017, in response to concerns raised by the community concerning truck yards, truck routes, container storage facilities, storage of hazardous materials and logistics facilities, and over the impacts these facilities have on the community, the City Council adopted interim urgency Ordinance No. 17-1615U which imposed a 45-day moratorium on the establishment, expansion, or modification of truck yards, logistics facilities, hazardous materials or waste facilities, container storage, and container parking within the City. On May 2, 2017, the City Council adopted Ordinance No. 17-1618U which extended the moratorium for another ten (10) months and fifteen (15) days. On March 20, 2018, the City Council extended the moratorium for one year.

During the moratorium, the Community Development Director, in conjunction with the City Council appointed Ad Hoc Committee reviewed and studied the adverse impacts and the benefits provided by logistics facilities in the City, so as to quantify the concerns raised by the community, and recommend proposed revisions to the City's laws, rules, procedures, and fees related to these facilities. The goal was to enable the City to adequately and appropriately balance the rights of existing property owners and future applicants who wish to establish, expand, or modify logistics facilities, with the preservation of the health, safety, and welfare of the communities. At that time, it was determined that new logistics facilities should pay their proportional share of impacts to the City's infrastructure and the associated maintenance of the infrastructure. These goals are being incorporated into the comprehensive General Plan Update.

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 comprehensive General Plan Update is expected to be adopted by summer of this year and will follow-up with a comprehensive Zoning Code Update which is anticipated to take at least a year post-General Plan Update.

As previously discussed in the Summary above, due to the City's lack of regulatory control over such projects and the location of the City making it a prime destination for same, and the fact that a comprehensive Zoning Code Update is well over a year away, perhaps two, the imposition of a conditional use permit requirement restoring the City's regulatory control

over such projects is urgently necessary to is necessary for the immediate preservation of the public peace, health, and safety.

## **V. FISCAL IMPACT**

There will be no expenditure on the part of the City to adopt this ordinance. The cost to administer this ordinance is currently unknown, but such costs will be recovered, at least in part, through application fees.

## **VI. EXHIBITS**

1. Urgency Ordinance No. 22-2223 (pgs. 5-11)

Prepared by: Saied Naaseh, Community Development Director