

ORDINANCE NO. 17-1615U

AN INTERIM URGENCY ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, IMPLEMENTING A 45-DAY TEMPORARY MORATORIUM ON THE ESTABLISHMENT, EXPANSION, OR MODIFICATION OF TRUCK YARDS, LOGISTICS FACILITIES, HAZARDOUS MATERIALS OR WASTE FACILITIES, CONTAINER STORAGE, AND CONTAINER PARKING IN THE CITY OF CARSON, AND DECLARING THE URGENCY THEREOF

The City Council of the City of Carson hereby ordains as follows:

SECTION 1. AUTHORITY AND EFFECT

- A. The State Planning and Zoning Law (Cal. Gov't Code Sections 65000, et seq.) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health safety and welfare, and a balancing of property rights and the desires of the community and how its citizens envisions their city.
- B. This Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Carson by Government Code Section 65858 and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council as if, and to the same extent that, such Ordinance had been adopted pursuant to each of the individual sections set forth herein.

SECTION 2. DEFINITIONS

The following definitions are applicable to this Interim Urgency Ordinance, unless the context clearly indicates otherwise:

- A. "Big box discount store" shall mean a large retail store whose physical layout resembles a large square or box when seen from above. A big-box store is typically characterized by a large amount of floor space (generally more than 50,000 square feet), a wide array of items available for sale, and its location in suburban areas. Big-box stores often typically offer lower prices because they buy products in high volume. Examples of big box discount stores include WalMart, Costco, Home Depot, Lowe's, TJ Maxx, Smart & Final, etc.
- B. "Cargo container" shall mean any container sufficiently durable for repeated use which, by virtue of its own particular design, permits the temporary storage and protection of bulk commodities, goods, and other cargo, and which may be transported in various modes without intermediate loading or unloading.
- C. "Cargo container storage " shall mean a facility for the storage or stacking of one or more cargo containers.
- D. "Cargo container parking" shall mean a facility for the parking of a trailer, detached from the tractor unit, on which one or more cargo containers may be loaded.

- E. “Director” means the Director of Community and Economic Development, and his/her designee.
- F. “Establishment” means to bring into existence (a new logistics facility).
- G. “Expansion” means:
 - 1. An increase of the total size of the floor area of any existing building area by 10% or more;
 - 2. Any expansion/intensification of truck yards, cargo container parking, and cargo container storage;
 - 3. Construction of any new structure on the premises of an existing business;
- H. “Facility” means a temporary or permanent use of land or use of premises, a building or structure, or part of a building or structure.
- I. “Hazardous materials” shall have the same meaning as Section 25501(n) of the Health and Safety Code.
- J. “Hazardous waste” shall have the same meaning as Sections 25117 and 25141(b) of the Health and Safety Code, and Section 40141 of the Public Resources Code.
- K. “Industrial wholesale” means an industrial facility consisting of the exchange of large quantities of goods for future distribution and resale for financial or other considerations.
- L. “Logistics facility” means any warehouse for storage and transportation of goods, distribution facilities, logistics services such as but not limited to material handling, production, packaging, inventory, transportation, storage, warehousing, freight forwarding, deposit, storage, safekeeping, or parts thereof, industrial wholesale, self-storage, portable storage rental facility, truck terminals, hazardous materials and/or hazardous waste facilities, truck yards, cargo container storage and cargo container parking, manufacturing uses with less than 50% of floor area devoted to manufacturing.
- M. “Logistics services” means services including labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement. However, establishments in this industry group always provide warehousing or storage services in addition to any logistic services. Furthermore, the warehousing or storage of goods must be more than incidental to the performance of services, such as price marking.
- N. “Modification” means making any changes, remodeling, or alterations to an existing building or site that require permits. Modification shall include change in tenant at an existing facility requiring a business license. A change in tenant means any amendment to a lease agreement that extends the term of the lease for more than three years, or a new lease agreement with a term longer than three years.

- O. “Permit” means any City planning land use approvals, any new business license tax permit (including the transfer of a business license from one owner to another), and any building, grading, plumbing, electrical, or mechanical permit, whether the approval or issuance is discretionary or ministerial.
- P. “Portable storage rental facility” means operations that rent individual storage containers to members of the public or businesses for the storage of a variety of items.
- Q. “Self-storage facility” means facilities that rent out space to persons for the storage of personal property. Self-storage facilities shall include public storage rental facilities.
- R. “Sensitive land uses” means residences and residential facilities, parks, schools, and hospitals.
- S. “Truck” means all Federal Highway Administration (FHWA) vehicle classes including Class 5 or higher with the exception of dually trucks and Recreational Vehicles.
- T. “Truck yard” means a principal use of land for parking or storage of trucks in active use with or without servicing or repairing of trucks as an incidental use thereto.
- U. “Truck terminal” means a principal use of land or building where there are dock facilities for trucks, either partially enclosed or unenclosed, for the purposes of transferring goods or breaking down and assembling tractor-trailer transport.
- V. “Hazardous waste and/or hazardous materials facility” means all contiguous land and structures, other appurtenances, and improvements on the land used for the treatment, transfer, storage, resource recovery, or recycling of hazardous waste and/or materials. A hazardous waste and/or materials facility may consist of one or more treatment, transfer storage, resource recovery, or recycling hazardous waste management units, or combinations of these units. Health & Safety. § 25117.1.
- W. “Warehouse” means 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. Sometimes warehouses are designed for the loading and unloading of goods directly from railways, airports, or seaports.

SECTION 3. FINDINGS

The City Council of the City of Carson hereby finds, determines, and declares that:

- A. This Ordinance is being adopted in order to allow the City time to thoroughly review, study and revise the City’s laws, rules, procedures and fees related to logistics businesses in the City of Carson.
- B. The close proximity of the City to major transportation facilities such as ports, airports, rail, and freeways make the City a desirable location for logistics businesses. Logistics

businesses usually involve one or more of the following: material handling, production, packaging, inventory, transportation, storage, warehousing, freight forwarding, deposit, storage, safekeeping, and hazardous waste and/or materials, hazardous waste . In addition, truck yards and container yards are necessary to serve logistic businesses.

- C. Generally, logistics facilities consume large areas of land that could be used for more desirable land uses such as manufacturing, office, or retail that generate jobs, utility users taxes, property taxes, sales tax, business license revenues, and other revenues. Logistics facilities typically generate a significant number of truck trips to and from the facility, are not likely to employ significant numbers of individuals, and generally do not generate significant sales tax revenue.
- D. Truck trips generated by logistics facilities have direct impacts on the community including traffic, air quality, noise, vibrations, and health impacts on the community.
- E. Truck traffic increases the maintenance costs on roads for the City. For example, a 1999 study for the City of Irwindale concluded that **one loaded mining truck causes street damage equivalent to that caused by 10,000 automobiles**. *City of Irwindale Mining Reclamation Impact Study*, prepared by Greystone, March 1999, Vol. I, p. iii @ 2.a., and Vol. II., pp. 25-29. A loaded mining truck weighs approximately 80,000 pounds, which is comparable to the average weight of loaded 18-wheeler trucks that commonly traverse the City of Carson to and from logistics facilities. The City intends to further research this issue and determine the impacts of trucks with three axles or more.
- F. Truck trips from commercial and industrial uses in Carson account for approximately 99.9% of all trips generated by Carson land uses (excluding trips going through the City that are not generated from or to the City). Approximately, 83.4% of all trips generated by Carson land uses is generated by industrial uses.
- G. The City of Carson cannot afford to continue to add new facilities that cause extensive damage to the City roads and often contribute little by way of revenue to mitigate these impacts. With the elimination of redevelopment, the City faced an loss of \$30 million annually, and that loss has not been recovered from other revenue sources. The City's structural deficit for FY 17-18 is projected to be \$3 million. This deficit will grow by about \$1 million per year over the next 4 years due to changes at CalPERS and other factors. A preliminary estimate of the FY 21-22 structural deficit is \$9.4 million.
- H. The City's share of every dollar of property tax collected is \$0.0674. This low property tax rate is one of the reasons the City of Carson is not able to adequately budget for the maintenance of roads. As stated in Section E., above, trucks are responsible for causing the damage on our roads and increasing the maintenance costs. This is evident from the condition of the roads in Carson and the lack of appropriate maintenance of the roads today. The City commissioned a Pavement Management Program Study prepared by NCE, dated January 2017. NCE obtained an inventory of pavement conditions for the entire City's street network, to develop strategies for the City to maintain all streets, and to perform budgetary analysis to determine the funding needs, among other tasks.

- I. The report concluded that average Pavement Condition Index (PCI) rating for City’s entire 46,555,211 square-foot street network is 67 (a perfect PCI rating score is 100). Sixty-seven PCI is considered “fair” condition for streets with both non-load related (weathering or raveling) and load related (alligator cracking) distress. Generally, streets with load-related distress are more expensive to repair. The report further breaks down the condition of the roads in the City as follows:

Class	PCI	Condition
Arterial	61	Fair
Secondary Arterial	50	Poor
Collector	62	Fair
Residential	75	Good

- J. The study further concluded the City currently has \$92.9 million in deferred roadway maintenance costs. With the current budget of \$1.5 million per year for the next seven years, the deferred maintenance will increase to \$145 million by FY 22/23 while the PCI rating will drop from 67 to 55 in the same time frame. The study also found that in order to maintain the same PCI rating of 67 for the same time frame, the City would have to increase its funding from \$1.5 million per year to \$8 million per year. In this scenario, however, the deferred maintenance only decreases from \$92.9 million to \$87.6 million. Therefore, even with a \$6.5 million increase in annual expenditures, the City’s deferred maintenance issue will not be remedied. It is evident, however, that given the state of City’s budget, it is impossible for the City to increase the street maintenance budget from its current levels.
- K. The City has approximately 48.2 centerline miles of roads designated as truck routes, and its annual road repair budget is \$1.5 million. As stated above, even in order to maintain the existing level of road conditions, the City has to spend \$8 million per year for the next seven years and still have a deferred maintenance budget of \$87.6 million. This significant increase has a substantial impact on the City’s budget. Logistics facilities should pay their fair share to pay of this maintenance.
- L. Reducing roads designated as truck routes is likely to reduce the impacts the trucks impose on City streets. In addition, further limiting truck traffic or hours from arterials with residential uses could reduce impacts on the community. However, an analysis needs to be done on which routes can be removed as truck routes and still ensure adequate truck circulation. The new truck routes must also reduce or eliminated negative impacts on automobile and public transportation traffic. These possible mitigation measures require further study.
- M. Trucks also cause noise and vibration, which cause disturbances and potential damage to businesses and homes that are near truck route roads. Noise and vibration impacts can be reduced by limiting truck routes, by building sound barrier walls along these routes,

restricting the hours certain truck routes can be used, and/or by other noise reducing measures. The City needs to conduct the appropriate studies to identify these impacts and provide recommendations for mitigation measures.

- N. Trucks likely affect air quality, as their emissions are many times those of passenger vehicles, and thus are also likely to have concomitant health effects. Diesel engines emit a complex mixture of air pollutants, including both gaseous and solid material. The solid material in diesel exhaust is known as diesel particulate matter (DPM). DPM is considered a subset of particulate matter less than 2.5 microns in diameter (PM2.5). Most PM2.5 derives from combustion, such as use of gasoline and diesel fuels by motor vehicles, burning of natural gas to generate electricity, and wood burning. DPM is most concentrated adjacent to freeways, truck routes, and roadways traveled by trucks. PM2.5 is the size of ambient particulate matter air pollution most associated with adverse health effects of the air pollutants that have ambient air quality standards. These health effects include cardiovascular and respiratory hospitalizations, and premature death.
- O. Health impacts can be reduced by employing strategies that improve air quality such as tree plantings programs, building bike lanes and trails, and assisting residents with health related issues. Other long term solutions can include adopting a clean trucks program. For example, zero emission trucks similar to those in the Catenary Drayage Truck for Zero-Emissions Goods Movement demonstration project, found here <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2014/2014-feb7-005.pdf?sfvrsn=2> and <http://www.aqmd.gov/docs/default-source/technology-research/clean-fuels-program/clean-fuels-program-advisory-group---january-29-2015/siemens-catenary-project-update---joe-impullitti.pdf?sfvrsn=7>. The City needs to conduct a the appropriate studies to determine whether a clean truck program would improve air quality in Carson.
- P. In some instances logistics facilities store and transport hazardous waste and/or materials. Hazardous waste and materials facilities present potential dangers to their immediate surroundings and to the community at large; as an example, hazardous gases could be released into the atmosphere as a result of accidents, emissions that are above and beyond those caused by other logistics facilities. Hazardous waste and materials facilities must be strictly regulated and limited in numbers so as to minimize or eliminate the risk of a hazardous materials spill. The Fire Department has identified 170 facilities in Carson that handle hazardous materials.
- Q. Scientific studies have been conducted on the impacts of trucks on surface water quality, specifically copper and zinc pollution issues. Further studies may be required to assess these impairments as they relate to truck traffic on the Dominguez Channel, the Los Angeles River, and Machado Lake that impact the City. The City has adopted an Enhanced Watershed Management Plan that calls out both regional projects and green street implementation to address the impairments, which provides for a compliance schedule and an a cost to implement the program, including potential fines for the City for noncompliance.

- R. Over the next few years, the City will also update its General Plan and zoning code to update its goals and policies for the development of the City. While the City recognizes the value of logistics facilities, the City must balance the interests of such businesses on the one hand, and the well-being of the community, attraction of land uses that create high-paying jobs, and generating revenues to pay for road maintenance, and ensure that logistics facilities mitigate their fair share of fiscal impacts on the City budget. To assess the true financial impacts of logistics facilities on the City's budget, a fiscal impact report needs to be prepared.
- S. The City needs time to evaluate the potential cumulative impacts of logistics facilities, now, before any more of these businesses create further irreversible or costly negative impacts in the community. Furthermore, the City should adopt "good neighbor" standards that reduce impacts of existing or future logistics facilities, on adjacent sensitive land uses.
- T. Many logistics facilities operate 24-hour a day. Limiting the operating hours may address many of the compatibility issues with sensitive land uses.
- U. Fifty percent of land use in City of Carson is devoted to industrial uses. Together with a 0.5% vacancy rate and the strategic location of Carson to the ports of Los Angeles and Long Beach, market forces will only intensify the logistics uses. This intensification could take the form of a second story for logistics facilities, and would further intensify truck traffic through the City.
- V. The advancements in robotics has played a significant role in the quantity of jobs generated by the sector. Logistics facilities, therefore, do not generate jobs the way they used to in the past and may be less desirable for that reason. The City needs to accurately assess the current benefits or impacts on the job market of logistics facilities.
- W. The General Plan's Land Use Element contains the following policies:
1. **LU-6.8** Manage truck-intensive uses.
 2. **LU-7.2** Locate truck intensive uses in areas where the location and circulation pattern will provide minimal impacts on residential and commercial uses.
- X. The General Plan's Transportation Element contains the following policies:
1. **TI-1.2** Devise strategies to protect residential neighborhoods from truck traffic.
 2. **TI-1.3** Ensure that the City's designated truck routes provide efficient access to and from the I-405, I-110 and Route-91 Freeways, as well as the Alameda Corridor.
 3. **TI-1.5** Require that all new construction or reconstruction of streets or corridors that are designated as truck routes, accommodate projected truck volumes and weights.
- Y. The General Plan's Noise Element contains the following policies:

1. **N-2.1** Limit truck traffic to specific routes and designated hours of travel, where necessary
2. **N-2.2** Examine the feasibility of implementing sound attenuation measures along the City's arterial streets, particularly along designated truck routes.
- Z. It is anticipated that these policies will be included in the General Plan update, and will likely be strengthened and broadened. The City therefore needs to conduct the appropriate studies to ensure that current and future logistics facilities regulations are consistent with the relevant General Plan policies and will also be consistent with the General Plan update.

SECTION 4. MORATORIUM

- A. Moratorium: During the effective period of this Ordinance, no application for permit will be accepted, no consideration of any application for permit will be made, and no permit will be issued by the City for the establishment, expansion, or modification of any logistics facilities within the City until this Ordinance has expired or has been repealed according to applicable law. Further, all processing of existing applications for permits shall be suspended immediately.
- B. Exemptions: the Ordinance shall not apply to the following:
 1. The annual renewal of an existing business license, any permits necessary for the routine maintenance of the buildings or sites, or any permits necessary for repairs required due to an emergency or to protect the public health, safety, and welfare shall not be considered issuance of a permit.
 2. Tenant improvements for current tenants within an existing building, provided the tenant improvements would not otherwise be considered an expansion or modification of the facility.
 3. Any logistics facility that has obtained a vested property right in the use to which the moratorium applies.
 4. Any logistics facility with 5 or fewer loading doors.
 5. Any new or renewed lease agreement, provided that the term does not exceed 3 years.
 6. Big box stores.

SECTION 5. REVIEW AND STUDY

During the period of this Ordinance, the Director shall review and study the adverse impacts of and the benefits provided by, logistics facilities in the City, so as to quantify the concerns described in Section 3, above, and shall recommend proposed revisions to the City's laws, rules, procedures, and fees related to these facilities, so as 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.

SECTION 6. EXCEPTIONS

- A. The City Council may, but is not required to, allow exceptions to the application of this Ordinance if based on substantial evidence presented in writing to the City Council at a Council meeting held no less than 30 nor more than 90 days after the Director's receipt of that evidence, the City Council determines any or a combination of the following:
1. The City's receipt and consideration of an application for a permit to establish, expand, or modify a logistics facilities, within the City's jurisdiction is necessary for the preservation of the public health, safety, and welfare.
 2. Application of the Ordinance would impose an undue financial hardship on a property or business owner.
 3. If an existing building is empty on the effective date of this Ordinance, or a tenant moves out of an existing building during the effective period of this Ordinance, and the property or facility owner wishes to have a new tenant or new use, provided the Council makes the following findings: the new use is permitted or conditionally permitted in the zone; the City Council deems the proposed new use or new tenant to be consistent with the purposes of this Ordinance and the General Plan; and the proposed new use or new tenant will not be in conflict with the contemplated general plan update, any specific plan or zoning code update that the City Council is considering or studying or intends to study.
 4. Land controlled by the City or by any of its agencies and authorities including, transactions approved by the Department of Finance.
 5. The developer or tenant agrees to form or to participate in a Community Financing District (CFD) to pay for ongoing City services, including but not limited to, road maintenance, landscape maintenance, lighting, public safety, storm water management, etc., to the satisfaction of the City Council
 6. The developer or tenant enters into a development agreement that guarantees the City the same financial assurances offered by a CFD.
 7. The fiscal impact analysis for the business shows that the business will not have adverse negative fiscal impacts on the City.
 8. The logistics facility will generate minimal or no truck traffic impacts.
- B. If the City Council determines to allow an exception pursuant to this section, then such applications and/or permits may be filed and processed in accordance with the City's then current regulations and authority, subject to the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and any other applicable laws, ordinances and regulations.

SECTION 7. URGENCY MEASURE

It is hereby declared this Ordinance is necessary as an urgency measure for the preservation of the public health, safety, and welfare. The City Council finds that the current zoning regulations and land use plans relating to logistics businesses do not adequately protect the peace, health, safety and general welfare of the residents of the City or in communities around the City. The City Council finds the urgency measure is necessary in order to ensure adequate regulation of logistics businesses, which regulations will serve to adequately and appropriately balance the rights of existing property owners and future applicants who wish to propose new logistics businesses in the City, with the preservation of the public health, safety, and welfare of the surrounding communities. The facts constituting the urgency are:

- A. Establishment, expansion, or modification of logistics businesses may create immediate irreversible and costly adverse impacts in the community; to wit, road damage, noise, vibration, and pollution. The City's limited budget does not cover the cost of mitigating such impacts. The impacts are already dire for the City, and would worsen and become less manageable with every new logistics facility that begins or expands its operation in the City of Carson. The City cannot afford to continue to impose such impacts onto its budget and onto its citizens and cannot allow these impacts to accumulate any further while the General Plan and zoning code are updated.
- B. It is now essential to determine the development capacity of the zoning districts in the City where such businesses are currently permitted, in light of the capabilities of those districts' infrastructure and public services.
- C. Through analysis of the impacts currently imposed by the current amount of truck traffic generated by logistics facilities, traffic studies to determine ways in which to minimize truck traffic impacts, analysis of appropriate measures to regulate hazardous materials within the City, and measures that the City can take to mitigate or prevent impacts from logistics facilities altogether.
- D. Absent the adoption of this Ordinance, the establishment, expansion, or modification of logistics businesses could result in the negative and harmful secondary effects identified above.
- E. As a result of the negative and harmful secondary effects associated with the establishment, expansion, or modification of logistics businesses, the current and immediate threat these businesses pose to the public health, safety, and welfare, and the potential zoning conflicts that would be created by such development, it is necessary to adopt a temporary, forty-five (45) day moratorium on the establishment, expansion, or modification of logistics businesses in the City.
- F. A moratorium is necessary in order to protect the City and its residents, businesses and visitors from the potential health and safety impacts of logistics businesses, including air quality, noise, traffic, parking, and other impacts, and to preserve the quality of life and protect the health, safety, and welfare of the surrounding communities.

- G. A moratorium is immediately required to preserve the public health, safety, and welfare and should be adopted immediately as an urgency ordinance, to make certain that permits for logistics businesses are issued only under adequate regulations and consistent with the City's future goals for development and expansion. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of comprehensive studies and plans for the regulation of such activities. The absence of this Ordinance would allow the proliferation of such businesses and their undesirable secondary impacts, and create a serious threat to the orderly and effective implementation of any amendments to the General Plan and the Zoning Code, as well as the vision for the City going forward, contemplated by the City Council.

SECTION 8. SEVERABILITY

The City Council hereby declares, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

I, DONESIA L. GAUSE, City Clerk, of the City of Carson, California, do hereby certify that the foregoing Ordinance No. _____ was introduced, and adopted upon at a meeting of the City Council of the City of Carson, held on the 21st day of March, 2017. Said Ordinance was duly passed, approved, and adopted by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Dated this 21st day of March 2017

Donesia L. Gause, CMC, City Clerk
City of Carson, California