

UNCODIFIED URGENCY ORDINANCE NO. NS-3064

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, EXTENDING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, RELOCATION OR EXPANSION OF INDUSTRIAL USES WITHIN SPECIFIC DEVELOPMENT NO. 84 ZONING DISTRICT FOR AN ADDITIONAL TEN (10) MONTHS AND FIFTEEN (15) DAYS PURSUANT TO GOVERNMENT CODE SECTION 65858

WHEREAS, the City of Santa Ana has the police power pursuant to Article XI, section 7 of the California Constitution, to make and enforce ordinances to regulate the use of land within its jurisdictional boundaries; and

WHEREAS, Government Code Section 65858 expressly authorizes the City Council, in order to protect the public health, safety and welfare, to adopt an interim urgency ordinance prohibiting a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time, provided that the urgency measure shall require a four-fifths vote of the legislative body for adoption, and shall be of no further force and effect forty-five (45) days from its date of adoption, unless duly extended; and

WHEREAS, on April 16, 2024, the City Council adopted a Moratorium on the approval, commencement, establishment, relocation or expansion of industrial uses within Specific Development No. 84 ("SD-84") also known as the Transit Zoning Code ("TZC") by adoption of Urgency Ordinance No. NS-3063 to immediately offer protection of public health, safety, and welfare from industrial uses significantly causing pollution burden to adjacent residential neighborhoods in the TZC (SD-84) through the following conditions, including: code enforcement active cases; irreconcilable land use conflicts in the TZC; alarming air quality, noise, traffic, proximity to noxious use facilities, and public health concerns; and external regulatory agency responsiveness; and

WHEREAS, the Moratorium will expire on June 1, 2024 unless extended; and

WHEREAS, Government Code Section 65858 authorizes the City Council, after notice pursuant to Government Code Section 65090 and a public hearing, to adopt an ordinance extending the Moratorium for 10 months and 15 days, upon approval by a fourth-fifths vote, and upon making the same findings required for the adoption of the initial forty-five (45) day Moratorium; and

WHEREAS, Government Code Section 65858(d) requires the City Council, ten days prior to the expiration of the Moratorium or any extension thereof, to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Moratorium; and

WHEREAS, on May 7, 2024, City staff prepared, and the City Council issued and filed a report to the public, pursuant to Section 65858(d) of the California Government Code, describing the City's measures to alleviate conditions that led to the adoption of the Moratorium; and

WHEREAS, Santa Ana Charter Sections 415 and 417 expressly authorize the City Council to enact urgency ordinances, which take effect immediately upon introduction, for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency; and

WHEREAS, Government Code Section 65858, authorizes the City Council to adopt an interim urgency ordinance with a four-fifths vote, without following the procedures otherwise required for the adoption of an ordinance, to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, in unanimously adopting the Moratorium on April 16, 2024, the City Council of the City of Santa Ana established the following findings, all of which below remain true and applicable and necessary to support extending the Moratorium:

- The TZC, located in the central core of Santa Ana, comprises approximately 450 acres, encompasses the Logan, Lacy, and Downtown neighborhoods, and was adopted by the City Council on June 7, 2010; and
- Upon the initial adoption of the TZC in 2010, the General Plan of the City of Santa Ana was updated with new land use designations for the areas covered by the TZC to allow for new, mixed-use residential and commercial communities; and
- The goals of the TZC are to provide a transit-supportive, pedestrian-oriented development framework to support the addition of new and enhancement of existing communities through transit infrastructure; to preserve and reinforce the existing character and pedestrian nature of the City by strengthening urban form through improved development and design standards; to encourage alternative modes of transportation; to provide zoning for the integration of new infill development into existing neighborhoods; to provide for a range of housing options; and to allow for the reuse of existing structures; and
- Industrial uses were established within the Logan and Lacy neighborhoods in close proximity to sensitive land uses such as

residences and schools prior to the adoption of the TZC, as far back as the late 19th century, predating modern zoning practices that take into account irreconcilable land use conflicts among variegated land uses; and

- The TZC provides new mixed-use zoning for properties contained within its boundary while creating industrial overlay zones allowing properties being used as industrial uses at the time of its adoption to continue to be governed by industrial zoning districts until such time that properties were converted to the mixed-use zones allowed by the TZC; and
- Senate Bill (SB) 1000 went into effect in 2018, requiring local governments to identify environmental justice communities, called “disadvantaged communities”, in their jurisdictions and address environmental justice in their general plans through facilitating transparency and public engagement in the planning and decision-making processes, reducing harmful pollutants and the associated health risks in disadvantaged communities, and promoting equitable access to health-inducing benefits such as healthy housing options; and
- The City of Santa Ana completed a comprehensive update of its General Plan in April 2022; and
- The Office of the Attorney General of the State of California was actively involved in ensuring Santa Ana’s General Plan update complied with all aspects of SB 1000 prior to its adoption; and
- As required by SB 1000, update of the General Plan and its associated land use plan identified and addressed long standing environmental justice issues throughout all of its elements, which include 77 implementation actions aimed at reducing harmful pollutants and associated health risks in disadvantaged communities; and
- Numerous policies of the General Plan are inconsistent with the present, irreconcilable land use pattern of the TZC. Specifically, these policies include Policy LU-1.1 (Compatible Uses), Policy LU-3.8 (Sensitive Receptors), Policy LU-3.9 (Noxious, Hazardous, Dangerous, and Polluting Uses), Policy LU-3.11 (Air Pollution Buffers), Policy LU-4.3 (Sustainable Land Use Strategies), Policy LU-4.6 (Healthy Living Conditions), Policy CM-3.2 (Healthy Neighborhoods), Policy EP-1.9 (Avoid Conflict of Uses), and Policy CN-1.5 (Sensitive Receptor Decisions), which are targeted at correcting past land use planning

practices that have placed an unequitable environmental and health burden on certain neighborhoods now termed disadvantaged communities; and

- The industrial overlay zones in the TZC perpetuate past planning practices of locating industrial uses, or other noxious and unwanted uses, in close proximity to communities of color; and
- The Logan neighborhood is the oldest Mexican and Mexican-American neighborhood in Santa Ana and one of the oldest in Orange County, and one of the few places where Mexicans and those of Mexican descent were allowed to buy land due to restrictions and covenants based on race during the first half of the 20th century; and
- The construction of Santa Ana (I-5) Freeway through Santa Ana in the 1950s resulted in a number of families being displaced through the demolition of single-family homes in the northeastern portion of the Logan neighborhood; and
- In the 1970s a proposed expansion of an arterial highway along Civic Center Avenue would have demolished a significant portion, if not all, of the Logan neighborhood; and
- The Logan and Lacy neighborhoods are within the second and third highest scored census tracts in Santa Ana, each with a composite score of 90 percent or greater, ranking in the 90th percentile or greater of census tracts in the State, and identified as “disadvantaged communities” by the Office of Environmental Health Hazard Assessment (OEHHA) in its CalEnviroScreen model; and
- Assembly Bill (AB) 686 requires local jurisdictions to take deliberate actions to explicitly address, combat, and relieve disparities to disadvantaged communities, such as Logan and Lacy neighborhoods, resulting from past patterns of segregation, disinvestment, and planning practices; and
- The updated land use plan in the Land Use Element of the General Plan does not designate any properties within the TZC, including the Logan or Lacy neighborhoods, as industrial; rather, are designated as varying intensities of District Center or Urban Neighborhood land use designations—both of which are inconsistent with industrial uses; and

- There are pressing and growing code enforcement complaints stemming from the irreconcilable land use conflicts in the TZC. Specifically, in the Logan and Lacy neighborhoods, the City's Code Enforcement Division has investigated over 33 commercial and industrial properties in the past nine months and currently has 17 active open cases that have been issued Notice of Violations and administrative citations for the following types of violations: illegal storage, land use, zoning, property and landscape maintenance, unpermitted work, business license, and certificate of occupancy. The close proximity of active open industrial cases during a short period of time is creating a public nuisance that is draining City resources and that is harming public health, safety, and general welfare of the TZC's existing and new residential neighborhoods from the concentration of open code enforcement cases nearby; and
- In the Logan neighborhood, 52 industrial facilities (automotive, warehouse/storage, crematory, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution exposure to disadvantaged communities, including lead risk in soil and housing, diesel particulate matter from idling trucks, toxic release from facilities, traffic impacts, noise pollution, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and
- In the Lacy neighborhood, 76 industrial facilities (automotive, warehouse/storage, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution onto disadvantaged communities, including lead risk exposure, diesel particulate matter from idling trucks, toxic release from facilities, traffic

impacts, noise pollution, vibration impacts, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and

- There is a recent surge in residential development activity in the TZC that is exacerbating the irreconcilable land use conflicts between residential and industrial land uses. Examples include the Lacy Crossing residential development with over 100 ownership units directly adjacent to existing industrial land uses, for which the City receives regular complaints from residential occupants of disturbances from noise, vibrations, odors, and truck traffic; and the Rafferty mixed-use development with 218 residential units, including 11 onsite units for very-low income households, which is located less than one-fifth of a mile from industrial land uses; and
- There is a marked increase in the pending and active development applications for industrial land uses in the TZC, including for contractor's yards, construction debris storage yards, manufacturing operations, expansion of existing industrial businesses, and storage and warehousing operations, stemming from shifting economic demands for goods and services emerging from the Covid-19 pandemic; and
- The City Council approved a contract with Moore, Iacofano, Goltsman, Inc. (MIG) on October 17, 2023. To ensure the City's Zoning Code and General Plan are consistent, and to maintain compliance with state law, comprehensive amendments to the Zoning Code are required; and
- MIG and City staff have conducted extensive community outreach, stakeholder interviews, and reviews of existing zoning-related codes and policies in Santa Ana. These early efforts have indicated that the irreconcilable land use conflicts and land use inconsistencies in the TZC area are among the top, most pressing topics that must be addressed as part of the comprehensive Zoning Code Update process in order to protect the health, safety, and welfare of the most vulnerable

communities that face the impacts of the land use conflicts within the TZC area; and

- The policies and implementation actions in the General Plan also require review, study, and possible revision in order to respond to recent concerns relating to the impacts of these industrial business uses in the TZC; and
- Given these concerns, the City Council directed that a study be undertaken of the current provisions of the TZC to address industrial business uses and determine whether such uses should be permitted in the zoning district, and if not, proceed with an ordinance amendment to preclude such uses from the district; and
- Based on the foregoing, the City Council found that continuing to issue permits, business licenses, or other applicable entitlements to individuals wishing to use their property located in the TZC for the purposes of industrial business use, prior to the City's completion of its study of the potential impact of such uses, would pose a current and immediate threat to the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements in the TZC area is thus necessary; and
- The City Council further found that if an industrial business use is permitted in the TZC without further review and potential regulation, it will pose a serious threat to the public interest, health, safety and welfare for the following reasons:
 - Adversely impacts surrounding businesses and neighborhoods;
 - Adversely impacts sensitive uses such as residences, schools, parks, and places where children congregate;
 - Conflicts with the goals and policies of the City's General Plan;
 - Long-term incompatibility and inconsistency with surrounding uses; and
 - Risks to the public health, safety and welfare of the City; and
- The City Council also determined that prevention of detrimental impacts to residents, the public interest, health, safety and welfare required the immediate enactment of the urgency ordinance and that the absence of the urgency ordinance will create a serious threat to the orderly and effective

implementation of any code amendments, general plan amendments or specific plan amendments which may be adopted by the City; industrial business uses may be in conflict with or frustrate the contemplated updates and revisions to the Code. Moreover, permitting such uses during said studies and implementation would create impacts on the public health, safety and welfare that the City Council, in adopting the ordinance, found to be unacceptable; and

WHEREAS, Since the adoption of the Moratorium, City staff has begun to gather data and research the impact of these industrial uses in the TZC as set forth in the report issued by the City Council on May 7, 2204; and

WHEREAS, there is a need to study further the issues associated with industrial uses in the TZC and the impact that these uses have on the adjacent residential neighborhoods and their residents; and

WHEREAS, City staff, the Planning Commission, and the City Council each require a reasonable period of time to study the existing SD-84/TZC and to evaluate if further, permanent action to address the land use conflicts in the TZC is necessary; and

WHEREAS, the City Council wishes to extend the Moratorium for a period of ten (10) months and fifteen (15) days, or until the City Council adopts an ordinance addressing the issues raised, whichever occurs first; and

WHEREAS, at a duly noticed public hearing on May 21, 2024, the City Council heard testimonial evidence and all other evidence submitted from members of the public that were present and from City staff. The City Council reviewed, analyzed, considered and studied all oral and written testimony and evidence presented at the public hearing, including staff reports and presentations of City staff.

NOW, THEREFORE, the City Council of the City of Santa Ana does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. The City Council finds that there is a current and immediate threat to public health, safety and welfare posed by industrial uses in SD-84, also known as, the TZC. If an industrial business use is permitted in the TZC without further review and potential regulation, it will pose a serious threat to the public interest, health, safety and welfare due to adverse impacts on surrounding businesses and neighborhoods; adverse impacts on sensitive uses such as residences, schools, parks, and places where children congregate; conflicts with the goals and policies of the City's General Plan; and the effect of long term incompatibility and inconsistency with surrounding uses.

Section 3. In accordance with Government Code Section 65858(d), on May 7, 2024, the City Council issued a written report describing the measures being taken to alleviate the conditions that lead to the adoption of the Moratorium and this extension thereof, attached hereto as Exhibit A and incorporated herein by reference.

Section 4. Government Code Section 65858 authorizes the City Council to adopt an interim Urgency Ordinance, without following the procedures otherwise required for the adoption of an ordinance, to protect the public safety, health and welfare, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission of the planning department is considering or studying or intends to study within a reasonable time.

Section 5. Government Code Section 65858(a) provides that the City Council, after notice and a public hearing, may extend the interim Ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension requires a four-fifths vote.

Section 6. The City Council, in accordance with Government Code Section 65858 and Santa Ana Charter Sections 415 and 417 hereby adopts this uncoded Urgency Ordinance extending the Moratorium on the approval, commencement, establishment, modification, relocation or expansion of industrial uses in the TZC for a period of ten (10) months and fifteen (15) days, commencing June 1, 2024. The Moratorium will now expire on April 15, 2025, or until the City Council adopts an Ordinance addressing the issues related to the approval, commencement, establishment, relocation or expansion of industrial uses within SD-84, also known as the TZC. For the purposes of this Urgency Ordinance, "industrial uses" includes those specified by Divisions 18 and 19 of Article III of Chapter 41 of the Santa Ana Municipal Code, and by Section 41-2007 of the Santa Ana Municipal Code and Table 2A in the Transit Zoning Code (Specific Development No. 84).

Section 7. This Ordinance shall have no further force and effect after a period of ten (10) months and fifteen (15) days, commencing June 1, 2024; unless, however, after public hearing the City Council, by four/fifths (4/5) vote, extend this Ordinance for a period of one more year.

Section 8. It shall be unlawful and a misdemeanor for any person to violate or fail to comply with any provision of the ordinance. The violation of any provision of this Ordinance shall be punished as provided in Section 1-8 of Chapter 1 of the Code.


Section 9. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15061(b)(3) and 15061(b)(5) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as the ordinance will temporarily preclude the approval, commencement, establishment, relocation or expansion of uses in the zoning district.

Section 10. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 11. This Ordinance is introduced, passed and adopted at one and the same meeting and is thereafter immediately effective. The City Council finds that this ordinance is necessary to protect the public safety, health and welfare. The reasons for the emergency are set forth in Section 1 of this Ordinance.

Section 12. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

ADOPTED this 21st day of May, 2024.



Valerie Amezcua
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: Laura A. Rossini

Laura A. Rossini
Chief Assistant City Attorney

AYES: Councilmembers: Amezcua, Bacerra, Hernandez, Lopez, Penaloza, Phan, Vazquez (7)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: None (0)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Jennifer L. Hall, City Clerk, do hereby attest to and certify the attached Ordinance No. NS-3064 to be the original ordinance adopted by the City Council of the City of Santa Ana on May 21, 2024.

Date: 5/30/2024


Jennifer L. Hall
City Clerk
City of Santa Ana