

ORDINANCE NO. NS-3004

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING SECTIONS 41-472 AND 41-472.5 OF THE SANTA ANA MUNICIPAL CODE TO REQUIRE A CONDITIONAL USE PERMIT FOR PROCESSING FACILITIES AS DEFINED IN SANTA ANA MUNICIPAL CODE SECTION 41-1250

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

A. On January 19, 1988, the City Council adopted Ordinance NS-1946, adding Article XIV to Chapter 41 of the Santa Ana Municipal Code (SAMC) to regulate recycling facilities.

B. Ordinance NS-1946 established definitions, zoning, regulations, and operational standards for a variety of recycling-related uses, including recycling facilities, collection facilities, and processing facilities.

C. On October 6, 1997, the City Council adopted Ordinance NS-2333, amending various sections of the SAMC regarding recycling regulations to update and bring the City's existing recycling facilities ordinance into conformance with State laws in place at the time. Ordinance NS-2333 remains in full effect.

D. Pursuant to SAMC Section 41-1250 (d), a Processing Facility is a building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Such facilities are distinguished between Light Processing Facilities or Heavy Processing Facilities, as defined in SAMC Sections 41-1250 (d) (1) and 41-1250 (d) (2), respectively.

E. A Light Processing Facility is permitted as a use in the Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts pursuant to Sections 41-472 (y) (3) and 41-489 of the SAMC, respectively, without the need for a conditional use permit.

F. SAMC Section 41-1 (Purpose) articulates the purpose and intent of the City's Zoning Code, that because of the necessity of segregating the location of residences, businesses, trades and industries; and regulating the use of buildings,

structures, and land; and regulating the location, height, bulk, and size of buildings and structures, the size of yards and other open spaces; the city is divided into land-use districts of such number, shape and area as may be considered best suited to carry out these regulations and provide for their enforcement. The City's zoning regulations are considered necessary in order to: (a) encourage the most appropriate use of land; (b) conserve and stabilize property value; (c) provide adequate open spaces for light and air and to prevent and fight fires; (d) prevent the undue concentration of population; (e) lessen congestion on streets and highways, and (f) promote the health, safety and the general welfare of the people, all as part of the General Plan of the City.

G. The absence of a Conditional Use Permit requirement for Light Processing Facilities is inconsistent with the goals expressed by SAMC Section 41-1 (Purpose) in that discretion by the Planning Commission and City Council cannot be exercised to ensure that the location and operation of such facilities are compatible with the scale, character, and nature of surrounding properties and neighborhoods as specified in SAMC Sections 41-1 (a), (b), (e), and (f).

H. Heavy Processing Facilities are currently required to obtain approval of a Conditional Use Permit and are only permitted in the City's Heavy Industrial (M-2) zoning district, pursuant to SAMC Section 41-489.5.

I. Due to the City's age, development patterns, and past zoning practices, there exist multiple areas of the City where Industrial (M-1 and M-2) zoning districts directly abut residentially-zoned or used properties, including in the Delhi, Logan, Cornerstone Village, Lacy, French Park, Artesia Pilar, Casa Bonita, and other residential areas near Harbor Mixed-Use Transit Corridor Specific Plan (SP-2), and also the Santa Anita and Mar-Les neighborhoods that are not part of an established Neighborhood Association.

J. There currently exist 12 Light Processing Facilities in the City. Of these, six are located in the Light Industrial (M-1) zoning district, five of which are operating without a Conditional Use Permit. Out of the 12 light processing facilities, 11 are within 1,000 feet of property zoned or used for residential purposes.

K. Due to the nature of their operations, Light Processing Facilities often operate in outdoor settings, creating dust, noise, odor, and negative aesthetic impacts on surrounding properties and neighborhoods that generate calls for code enforcement and police services. Since 2010, the Code Enforcement Division has received and reviewed 48 complaints for such facilities. The nature of these complaints includes unpermitted storage and construction; sanitation, health, or safety concerns; operating beyond approved operations or operating standards specified by the SAMC; outdoor business activity; debris, trash, and litter; graffiti; homeless encampments; and unpermitted or excess signage.

L. The amendments proposed by this Urgency Ordinance are consistent with numerous Goals and Policies of the existing General Plan. These include:

1. Land Use Element: Goals 1 (Promote a balance of land uses to address basic community needs), 3 (Preserve and improve the character and integrity of neighborhoods), and 5 (Ensure that the impacts of development are mitigated);
2. Noise Element: Goal 1 (Prevent significant increases in noise levels in the community and minimize the adverse effects of currently-existing noise sources);
3. Public Safety Element: Goal 1 (Preserve a safe and secure environment for all Santa Ana residents and workers); and
4. Urban Design Element: Goals 1 (Improve the physical appearance of the City through development of districts that project a sense of place, positive community image, and quality environment) and 2 (Improve the physical appearance of districts through development that is proportional and aesthetically related to its district setting).

M. The City is in the process of comprehensively updating its General Plan. Proposed new or updated Elements of the General Plan include Community, Economic Prosperity, Noise, Safety, Land Use, and Urban Design. These proposed new or updated Elements contain draft policies that have been identified and thoroughly reviewed by members of the Santa Ana community through surveys, workshops, meetings, and public hearings. These draft policies are intended to improve and maintain a high quality of life for residents, businesses, and visitors of Santa Ana and address deleterious land uses such as Processing Facilities, both Light and Heavy, in the City.

N. If Light Processing Facilities remain a use permitted in the Industrial (M-1 and M-2) zoning districts without a conditional use permit, they will pose a serious threat to the public interest, health, safety and welfare for the following reasons:

1. Such uses may continue to locate in the City's Industrial zoning (M-1 and M-2) districts without appropriate and thorough review by the City's Planning Commission and City Council. Such uses would remain subject to the City's administrative review process for administrative development projects, pursuant to Article V, Division 3 of Chapter 41 of the SAMC. This administrative review process ensures consistency with adopted development standards and design guidelines, but (1) does not allow the City to evaluate each submitted application for consistency with surrounding properties and neighborhoods, as well as the General Plan, and to therefore recommend approval or denial of such applications subject to a discretionary review

process, and (2) prevents the Planning Commission and City Council from imposing conditions of approval to ensure compatible and harmonious operations of such facilities with surrounding properties and neighborhoods.

2. Operations typical of Light Processing Facilities, which include preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing, are known to have detrimental effects on surrounding properties due to the noise, odor, vibration, vermin infestation, visual, and traffic impacts caused by inbound and outbound truck movements to and from such facilities. The absence of a Conditional Use Permit requirement for such facilities severely circumscribes the City's ability, through its administrative review process, to impose conditions on such operations that would otherwise protect the health, welfare, and safety of residents and visitors to properties abutting or in the vicinity of Light Processing Facilities.

O. Prevention of detrimental impacts to residents, the public interest, health, safety and welfare requires the immediate enactment of this Urgency Ordinance. The absence of this 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. Light Processing Facilities permitted by-right may be in conflict with or frustrate other provisions of the SAMC intended to guarantee or preserve the public peace, health, or safety. Moreover, permitting such facilities without requiring a Conditional Use Permit would create impacts on the public health, safety and welfare that the City Council, in adopting this ordinance, has found to be unacceptable.

P. The Request for Council Action for this ordinance dated May 4, 2021 and duly signed by the Executive Director of the Planning and Building Agency shall, by this reference, be incorporated herein, and together with this ordinance, any amendments or supplements, and oral testimony constitute the necessary findings for this ordinance.

Q. The City Council finds, determines and declares that the current and immediate threat to the public health, safety and welfare of the city and its citizens necessitates the immediate enactment of the ordinance. The facts constituting such urgency are set forth in paragraphs A through O of this ordinance.

R. The City Council of the City of Santa Ana intends that nothing in this article shall be deemed to conflict with State or Federal law, nor to otherwise permit any activity that is prohibited under the California Beverage Container Recycling & Litter Reduction Act or other applicable law.

Section 2. The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines.

Section 3. Pursuant to Santa Ana City Charter Sections 415 and 417, this Ordinance is declared by the City Council to be necessary as an emergency measure to protect and preserve the health, safety and welfare of the citizens of the City of Santa Ana and will become effective immediately if passed by the affirmative votes of at least two-thirds (2/3) of the members of the City Council.

Section 4. Section 41-472 of Article III, Division 18 of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 41-472. - Uses permitted in the M1 district.

The following uses are permitted in the M1 district:

- (a) The compounding, processing, or treatment of raw or previously treated materials into a finished or semi-finished product, excluding those uses specified in section 41-489.5.
- (b) The manufacture of products from raw or previously treated materials, excluding those uses specified in section 41-489.5.
- (c) The assembly of products from raw or previously treated materials, excluding those uses specified in section 41-489.5.
- (d) The packaging or distribution of previously prepared products or materials, excluding those uses specified in section 41-489.5.
- (e) Wholesale establishments where the primary trade is business to business sale of products, supplies, and equipment.
- (f) Storage of previously prepared goods, products or materials for eventual distribution or sales where the goods, products or materials are the property of the owner or operator of the building or structure.
- (g) Machine shop or other metal working shops.
- (h) Warehousing.
- (i) Impound yards (storage only) with no office or dispatching operations.
- (j) Laundry and dry cleaning establishments in conjunction with plant operation for such establishment on the premises.
- (k) Eating establishments not specified in section 41-472.5.
- (l) Research laboratories that do not generate hazardous waste materials.
- (m) Service stations with no more than two thousand (2,000) square feet of the gross floor area devoted to non-automotive related product sales.
- (n) Truck, boat and heavy equipment sales, rental, and service.

- (o) Movie, photography, musical or video production studios.
- (p) Bulk products sales (twenty-five (25) cubic feet or greater) when such products are the primary sales activity.
- (q) Public utility structures.
- (r) Blueprinting, photoengraving, screen printing and other reproduction processes.
- (s) Wholesale nursery and plant storage.
- (t) Contractor's yard.
- (u) Automotive repair and service, including body and fender repair, painting, and engine replacement.
- (v) Home improvement warehouse store.
- (w) Sales of industrial products, supplies and equipment used for final product manufacture.
- (x) Lumberyard, including mill and sash work if conducted entirely within an enclosed building.
- (y) Recycling facilities not in excess of forty-five thousand (45,000) gross square feet and in compliance with section 41-1253 of this Code including:
  - (1) Small collection facilities.
  - (2) Large collection facilities.
  - ~~(3) Light processing facilities.~~
- (z) Adult entertainment businesses, subject to compliance with the requirements of article XVII of this chapter.
- (aa) Storage and distribution of hazardous materials.
- (bb) Passenger transportation services.

Section 5. Section 41-472.5 of Article III, Division 18 of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read in full as follows:

Sec. 41-472.5. - Uses subject to a conditional use permit in the M1 district.

The following uses may be permitted in the M1 district subject to the issuance of a conditional use permit:

- (a) Principal industrial uses if occupying less than seventy (70) per cent of the gross floor area with the remainder of the floor area allocated to office use only.
- (b) Storage of new or used buildings or houses.
- (c) Child care facilities other than as permitted by section 41-472.1.
- (d) Trade schools which provide instruction which requires the operation of heavy equipment or machinery normally associated with manufacturing operations such as woodworking or machine shops.
- (e) Kennels for the temporary care and lodging of dogs and other domesticated household animals.

- (f) Eating establishments permitted in section 41-472 which operate between 12:00 and 5:00 a.m. and which are within one hundred fifty (150) feet of a residential use.
- (g) Eating establishments with drive-through window service.
- (h) Petroleum and gas storage.
- (i) Freight, bus and truck terminal.
- (j) Industrial medical clinics which offer medical services by referral only and do not offer overnight stays.
- (k) Administrative office use ancillary to a permitted industrial use occupying more than thirty (30) per cent of the gross floor area.
- (l) Light processing facilities and Heavy processing recycling uses facilities.
- (m) Car wash facility.
- (n) Banquet facilities as an ancillary use to a restaurant or eating establishment, subject to development and operational standards set forth in section 41-199.1.
- (o) Commercial storage not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway or within one thousand (1,000) feet of a freeway intersection.
- (p) Mini-warehouse uses; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.
- (q) Recreational vehicle, vehicle and/or boat storage yard; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is: not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.
- (r) Data center uses; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is: not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.
- (s) Indoor sport facility, subject to development and operational standards set forth in section 41-482.

Section 6. 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 of the City of Santa Ana 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 be declared invalid or unconstitutional.

Section 7. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this 4<sup>th</sup> day of May 2021.



Vicente Sarmiento  
Mayor

APPROVED AS TO FORM  
Sonia R. Carvalho, City Attorney

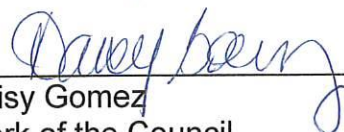
By:   
John M. Funk  
Sr. Assistant City Attorney

AYES:	Councilmembers:	<u>Bacerra, Hernandez, Lopez, Mendoza, Phan</u> <u>Penaloza, Sarmiento (7)</u>
NOES:	Councilmembers:	<u>None (0)</u>
ABSTAIN:	Councilmembers:	<u>None (0)</u>
NOT PRESENT:	Councilmembers:	<u>None (0)</u>

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify the exhibit Ordinance No. NS-3004 to be the original ordinance adopted by the City Council of the City of Santa Ana on May 4, 2021 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: May 5, 2021

  
Daisy Gomez  
Clerk of the Council  
City of Santa Ana