



City of
LA HABRA

Planning Commission Report

Item No. 1.

MEETING DATE: May 8, 2023

TO: PLANNING COMMISSION

FROM: SUSAN KIM, DIRECTOR OF COMMUNITY & ECONOMIC DEVELOPMENT
By: David Lopez, Associate Planner

SUBJECT: DULY NOTICED PUBLIC HEARING TO CONSIDER A REQUEST FOR ZONE CHANGE 23-01 TO AMEND TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO GENERAL RETAIL USES AND PERSONAL SERVICES AND THEIR HOURS OF OPERATION

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The amendments were reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be exempt pursuant to Section 15061(b)(3) (Common Sense Exception) of the CEQA guidelines because the proposed amendments to the La Habra Municipal Code have no possibility of having a significant effect on the environment.

RECOMMENDATION:

That the Planning Commission approve:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING ZONE CHANGE 23-01 TO AMEND TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO GENERAL RETAIL USES AND PERSONAL SERVICES AND THEIR HOURS OF OPERATION.

DISCUSSION:

On February 6, 2023, the City Council directed the Community and Economic Development Department to initiate Zone Change 23-01 involving amendments to Title 18 (Zoning) of the La Habra Municipal Code (LHMC) related to general retail businesses and their 24-hour operations. In

2022, certain general retail convenience stores that sell alcoholic beverages in the City and operate on a 24-hour per day basis were the subject to criminal activity during the early morning hours. The events in 2022 prompted an analysis of the City's Zoning Code related to the definition and regulations limiting the hours of operation for general retail businesses. The analysis determined that the Zoning Code currently does not include a clear definition for general retail and also does not specify any limitations regarding the hours of operation for general retail businesses. Although State law (Business and Professions Code Section 25631) prohibits retail businesses that sell alcoholic beverages from selling alcoholic beverages for off-site consumption between the hours of 2:00 a.m. to 6:00 a.m., neither State law nor the City's Zoning Code require these businesses to be closed during these hours.

The objective of Zone Change 23-01 is to update the City's Zoning Code to include a clear definition for general retail and update the Land Use Matrix to require a Conditional Use Permit (CUP) for general retail businesses that wish to operate 24-hours a day. By requiring a CUP, the City will have the ability to analyze each application on a case-by-case basis allowing for tailored conditions with a focus on the implementation of public safety measures. The CUP process will also involve public notification, allowing residents and property owners the opportunity to express their concerns. In the event that a general retail business fails to uphold and comply with City standards related to their 24-hour operations, the City will have the ability to revoke or modify the CUP. The new language proposed to be added to the La Habra Municipal Code, defining "general retail" and requiring a CUP for general retail businesses operating 24-hours is shown in bold, blue font (**blue font**). The changes to the La Habra Municipal Code are also identified in the Attachment 2 (Exhibit A of the Draft Ordinance).

Currently, the Zoning Code does not include a definition for "general retail" which is utilized in the classification of various businesses providing the sale of retail type products. The establishment and operation of a general retail business is permitted outright within the City's commercial zones, as identified in Table 18.06.040.A. Zone Change 23-01 includes the addition of a definition for general retail within Section 18.040.030. Other cities have defined "general retail" to include businesses focusing on the sale of merchandise to the public. The proposed "general retail" definition includes the same language and includes examples of the various general retail businesses common within the City.

The term "general retail" does not and would not apply to retail stores selling pre-owned merchandise, which are currently only allowed subject to a CUP in the City's commercial zones; and, as proposed, would not include the incidental sale of merchandise to the public in conjunction with an automobile service station, as these type of convenience stores would be reviewed in conjunction of the approval of any CUP required for the automobile service station. In addition, in past practice, staff has categorized certain services as "general retail." These services include: beauty salons; nail salons; barbershops; and diet centers. In order to differentiate these services from the definition for "general retail" proposed below, staff is recommending to bifurcate these services into a new use category "personal services." This new use category would be defined separately from "general retail," but the uses would continue to be permitted in the same manner as "general retail" uses, as shown below.

LHMC Section 18.040.030 Terms defined:

"General retail" means any establishment focusing on the sale of merchandise to the public. Examples of these establishments and merchandise include, but are not limited to, apparel, appliances, beauty supplies, bicycles, boutiques, candy, clothing, conveniences goods, florists, groceries, hardware, health food, hobby shops, jewelry, pharmacies, photography, shoes, tobacco shops, sporting goods, stationery, toy and game stores. "General Retail" does not include retail stores selling pre-owned merchandise or the incidental sale of merchandise to the public in conjunction with an automobile service station.

"Personal services" means any establishment focusing on providing services and incidental sales of a personal nature. Examples of personal services include, but are not limited to, beauty salons, nail salons, barbershops, and diet and nutrition centers.

Establishing a clear definition for "general retail" will assist staff in identifying which businesses would be subject to limitations on their hours of operation. In addition, separating out certain services, previously informally identified as "general retail," into a new category "personal services" will provide greater clarity in the uses permitted within each of these categories.

The proposed amendments are consistent with other amendments to the Zoning Code, that have been routinely processed over the years to enhance the Code's applicability and simplify the standards contained therein. The utilization of the Land Use Matrix in conjunction with the definitions will provide staff with the necessary tools to evaluate businesses citywide and provide customers and business owners with clear guidance and direction.

LHMC Table 18.06.040.A - Land Use Matrix:

Permitted = P Conditional Use Permit = CUP Not Permitted = -- Special Event Permit = S Home Occupation Permit = H	R-1a	R-2	R-5												
	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1	SP-1	
	R-1c	R-4	R-7					C-2sH							
COMMERCIAL - RETAIL															
Bakeries with less than 10 employees on premises	--	--	--	--	--	P	P	P	P	P	--	P	P	P	
Banks (with or without ATM machines)	--	--	--	--	--	P	P	P	P	P	--	P	CUP	P	
Coin-operated laundries	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	--	--	CUP	
General retail	--	--	--	--	--	--	P	P	P	P	--	P	CUP	P	
<i>General retail operating 24-hours a day</i>	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Motor vehicle sales and service (as defined in the California Vehicle Code)	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Retail nursery (garden center)	--	--	--	--	--	CUP	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Retail stores selling pre-owned merchandise	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	--	CUP	
Smoking lounges	--	--	--	--	CUP	CUP	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Temporary commercial enterprises and seasonal sales lots	--	--	--	--	--	--	S	S	S	S	--	S	S	S	
COMMERCIAL - SERVICES															
Automobile service/repair	--	--	--	--	--	--	--	--	CUP	CUP	--	CUP	P	CUP	
Automobile service stations	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Check cashing or payday advance	--	--	--	--	CUP	CUP	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Commercial repair	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	P	CUP	
Car wash, coin-operated and automated	--	--	--	--	--	--	--	--	CUP	CUP	--	CUP	P	CUP	
Day spa	--	--	--	--	--	CUP	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP	
Dry cleaning, pressing and laundry businesses	--	--	--	--	--	P	P	P	P	P	--	P	CUP	P	

Fortunetelling establishments	--	--	--	--	--	P	P	P	P	P	--	P	CUP	P
Funeral parlors/mortuaries	--	--	--	--	--	CUP	CUP	CUP	CUP	CUP	--	CUP	CUP	CUP
<i>Personal services</i>	--	--	--	--	--	--	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	--	<i>P</i>	<i>P</i>	<i>P</i>
Restaurants	--	--	--	--	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Restaurants - food to go	--	--	--	--	P	P	P	P	P	P	CUP	CUP	CUP	P
Upholstery shops (excluding furniture refinishing	--	--	--	--	--	--	CUP	CUP	CUP	CUP	--	CUP	P	CUP

Staff utilized the League of California Cities, Housing, Community and Economic Development (HCED) List Serve to inquire if other cities required a CUP for 24-hour operations. The responses included the following:

- City of Whittier requires a CUP for businesses that operate past 12:00 a.m. and/or before 6:00 a.m.
- City of Citrus Heights requires a CUP for convenience stores that operate past 10:00 p.m.
- City of Simi Valley requires a CUP for any business that is open to the public between the hours of 11:00 p.m. and 5:00 a.m.
- City of Cupertino requires a CUP for businesses that operate between 11:00 p.m. through 7:00 a.m.
- City of Sacramento has restrictions limiting markets to the hours of 8:00 a.m. to 7:00 p.m.

On April 20, 2023, staff sent letters to the five general retail businesses that are presently operating 24-hours a day within the City of La Habra, to inform the store managers and owners of the intent of Zone Change 23-01. The letters also identified an amortization period of 90 days from the approval of the ordinance, in which the stores would be required to comply by limiting the store hours, or by obtaining a CUP to authorize the 24-hour operations. The five business locations include:

1. 381 East Whittier Boulevard (Operation since 1990)
2. 100 West La Habra Boulevard (Operation since 2014)
3. 2000 West La Habra Boulevard (Operation since 1986)
4. 2001 East La Habra Boulevard (Operation since 1988)
5. 541 West Imperial Highway (Operation since 1976)

The above properties are the only general retail businesses affected by Zone Change 23-01, no other general retail businesses operate 24 hours per day in the City of La Habra, other than convenience stores that operate in conjunction with an automobile service station. As noted in the above definition for the term "general retail," these uses would no longer be classified as "general retail." Convenience stores in conjunction with an automobile service station would be considered as part of the CUP approval process for an automotive service station.

The above affected properties also received notice of this Planning Commission public hearing, and will receive notice of a future City Council public hearing, at which time the City Council will consider the proposed ordinance and the Planning Commission's recommendation. If the proposed ordinance is adopted by the City Council, which requires introduction at one meeting and adoption at a subsequent meeting, the ordinance will become effective 30 days after adoption.

FISCAL IMPACT/SOURCE OF FUNDING:

A general retail business that requests 24-hour operations will be required to process a CUP which includes a processing fee in the amount of \$6,491.00

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):

The proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since no disturbance of soil will occur, this project is exempted by the Water Quality Ordinance from the preparation of a WQMP.

GENERAL PLAN RELEVANCE/CITY COUNCIL GOALS & OBJECTIVES:

The proposed project is related to the following General Plan policies:

- PS 1.7 Security and Design Features. Requires that security measures are integrated into the design of new development projects and support the incorporation of Crime Prevention through Environmental Design (CPTED) principles, or other comparable concepts.
- PS 1.8 Review of Development Proposals. Include the LHPD in the review of development proposals to ensure that projects adequately address crime and safety.

The proposed project will achieve the following elements of the Fiscal Year 2022-2023 City Council Goals and Objectives:

- Goal 5 Development Activity and Business Assistance
 - Objective R: Review the Zoning Code on an ongoing basis and process amendments that ensure compliance with recent State legislation, streamline project processing, remove unnecessary regulations, and/or make the Zoning Code easier to implement.

Attachments

1. Resolution
 2. Draft Ordinance
 3. February 6, 2023 City Council Report
 4. Courtesy Letters
 5. Notice to Property Owners
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