

DRAFT ORDINANCE NO. CC 2025-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, APPROVING ZONE CHANGE 25-0001 REPEALING AND REPLACING CHAPTER 18.66 (CONDITIONAL USE PERMITS) OF TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO CONDITIONAL USE PERMITS AND ESTABLISHING PROCEDURES FOR MINOR CONDITIONAL USE PERMITS AND MAKING A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15061(B)(3) (COMMON SENSE EXEMPTION) OF THE CEQA GUIDELINES

THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, on June 17, 2024, the La Habra City Council initiated amendments to Title 18 (Zoning) of the La Habra Municipal Codes related to conditional use permits (CUP) for non-residential uses in the City's commercial and industrial zones, including direction to establish a minor conditional use permit (MCUP); and

WHEREAS, the proposed amendments under Zone Change 25-0001 are consistent with the City's General Plan; and

WHEREAS, on May 12, 2025, the Planning Commission held a duly noticed public hearing to consider the proposed amendments to Title 18 of the La Habra Municipal Code under Zone Change 25-0001, at which time it considered all material and evidence presented, whether written or oral, and recommended that the City Council approve the proposed code amendments; and

WHEREAS, on _____, 2025, the City Council held a duly noticed public hearing to consider the proposed amendments to Title 18 of the La Habra Municipal Code under Zone Change 25-0001, at which time it considered all material and evidence presented, whether written or oral, including the Planning Commission's recommendation; and

WHEREAS, all legal requirements prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein.

SECTION 2. Consistency with General Plan. The City Council finds and determines that the proposed amendments to Title 18 (Zoning) of the La Habra Municipal Code are consistent with the goals and objectives of the La Habra General Plan.

SECTION 3. California Environmental Quality Act. The City Council finds and determines that this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption), since it can be seen with certainty that there is no possibility that the zone change may have a significant effect on the environment.

SECTION 4. Repeal and Replace Chapter 18.66. Chapter 18.66 (Conditional Use Permits) of Title 18 (Zoning) of the La Habra Municipal Code is hereby deleted in its entirety and replaced as follows:

18.66.010. Applicability.

- A. The regulations set forth in this chapter shall apply to the granting of conditional use permits (“CUP”) and minor conditional use permits (“MCUP”).
- B. Uses listed in this title as being permitted subject to a CUP or MCUP may be so permitted in accordance with the provisions of this chapter.
- C. An MCUP shall not be used if any environmental review other than a categorical or statutory exemption is applicable.
- D. Any use which is distinguished or characterized by matter depicting, describing or relating to “specified anatomical areas” or “specified sexual activities” shall be exempt from the provisions of this chapter and shall instead be subject to the provisions of Chapter 18.56 et seq. of this code.

18.66.020. Application—Contents.

Applications for CUPs and MCUPs shall be accompanied by the following information:

- A. A plot plan and description of the property involved showing the location of all existing and proposed buildings;
- B. Plans and descriptions of the proposed use of the property with ground plans and elevations for all proposed buildings;
- C. A description of operations for the proposed use;
- D. A reference to the provisions of this title under which application is sought; and
- E. For a CUP, a verified list of the name and address of each property owner (a “mail list”) within three hundred feet of the exterior boundaries of the property involved, using for this purpose the last-known name and address of such owners as shown on the latest equalized assessment roll. For an MCUP, a mail list for all properties adjacent to and directly across the street from the exterior boundaries of the subject property, as shown on the latest equalized assessment roll.

18.66.030. Application—Filing.

Applications for CUPs and MCUPs shall be made on forms furnished by the city and accompanied by a fee in the amount established by the city council.

18.66.040. Applications—Investigation and Findings.

- A. The approval authority shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to ensure that the action on such application is consistent with the intent and purpose of this title and with previous actions of the planning commission and city council.
- B. In order to grant a CUP or MCUP, the following findings must be made by the approval authority:
 - 1. The proposed use will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.
 - 2. The subject site is physically suitable for the type of land use being proposed.
 - 3. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this title.
 - 4. The proposed use is consistent with the comprehensive general plan.

18.66.050. Approval authority.

- A. Planning commission. The planning commission is the approval authority for CUPs.
- B. Director. The director is the approval authority for MCUPs.
- C. Referral to the planning commission. Notwithstanding the foregoing, if the director receives objections to an application for an MCUP which cannot be resolved by the director, the matter shall be referred to the planning commission. In such instances, the application shall be considered one for a CUP and the proceedings by the planning commission shall be held in the manner required by this chapter for a CUP.
- D. Concurrent decision-making. When any application for an MCUP is made in conjunction with, and as a part of, a project that requires planning commission action, the application shall be made to the planning commission. In such instances, the application shall be considered one for a CUP and the proceedings by the planning commission shall be held in the manner required by this chapter for a CUP.

18.66.060. Conditions.

In approving CUPs and MCUPs, the approval authority may establish such conditions as it may determine to be reasonably necessary to safeguard and protect the public health and safety, promote the general welfare, and ensure the development of any use authorized in accordance with approved plans, provided such conditions are reasonably related to the impacts of the use of the property for which the CUP or MCUP is requested.

18.66.070. Administrative action on MCUP; notice.

- A. The director shall make a written decision on an MCUP within thirty days from the city's determination that the project is exempt from the California Environmental Quality Act and the decision shall set forth the findings upon which the decision is based.
- B. Prior to making a decision, written notice of the MCUP application shall be sent to owners of all properties adjacent to and directly across the street from the exterior boundaries of the subject property, as shown on the latest equalized assessment roll. The notice shall specify the date by which objections or other comments to the application should be filed with the director, which date shall be at least ten working days from the date the notice is mailed.

18.66.080. Public hearing—CUP Scheduling—Notice.

Following the receipt in proper form of an application for a CUP, the secretary of the planning commission shall fix a time and place of public hearing thereon. Not less than ten days before the date of such public hearing, notice of the date, time, place of hearing and location of the property and the nature of the request shall be given in the following manner:

- A. By publishing once in a newspaper of general circulation in the city;
- B. By mailing a notice, postage prepaid, to the applicant and to the owners of all property within three hundred feet of the exterior boundaries of the property involved, using for this purpose the last-known name and the address of such owners as shown on the latest equalized assessment roll.

18.66.090. Public hearing—Conduct.

Public hearings as provided for in this chapter shall be held before the planning commission at the time and place for which public notice has been given as required in Section 18.66.080. The planning commission may establish its own rules for the conduct of such hearings. A summary of all pertinent testimony offered at a public hearing, together with the names and addresses of all persons testifying, shall be recorded and made a part of the permanent files of the case. The planning commission may continue any such hearing.

18.66.100. Planning commission action.

- A. Within thirty-five days after the conclusion of a public hearing, the planning commission shall render its decision on the matter so heard. The failure of the planning commission to render such decision within thirty-five days after the conclusion of the hearing shall be deemed to constitute a denial.
- B. The planning commission shall announce and record its actions by formal resolution, and such resolution shall recite the findings upon which the planning commission bases its decision.

18.66.110. Period of validity—extensions.

- A. Unless a different period is established as part of the approval, a permit issued under this chapter shall expire and become void two years following the effective date of the permit unless utilized. For purposes of this section, “utilized” means:
 - 1. Construction has commenced as evidenced by issuance of a permit necessary for implementation of the project, including a demolition permit, grading permit, or building permit, and work is being diligently pursued toward completion; or
 - 2. A certificate of occupancy is issued; or
 - 3. The site is occupied and being operated in accordance with the permit and conditions of approval; or
 - 4. An extension has been granted in accordance with this section; or
 - 5. As may otherwise be specified in the original approval.

- B. The director may approve one-year extensions, up to a maximum of two years, to the period of validity, provided that the director makes the following findings in writing prior to granting a requested extension:
 - 1. There have been no changes in circumstances or law that would preclude the director from making the findings upon which the original approval was based; and
 - 2. Appropriate evidence has been provided by the permittee to document that the extension is required due to a hardship that was not the result of personal action(s) undertaken by the permittee.
- C. To request an extension, the permittee shall submit the request in writing prior to the expiration date, submit a fee in the amount established by the city council, and provide a letter of justification explaining how each of the findings required by this section can be made.
- D. The director's decision on an extension of time may be appealed in accordance with the appeal procedures set forth in this chapter.

18.66.120. Revocation or amendment.

- A. The planning commission may revoke or amend a CUP or MCUP for cause. As used in this section, "cause" means any violation of any applicable provision of this title, failure to comply with conditions of approval, and/or a change in conditions occurring after the original grant of the CUP or MCUP which change in conditions makes continuation of the permit, or continuation without amendment, incompatible with the general welfare of the surrounding neighborhood. The planning commission shall not revoke or amend a CUP or MCUP without first conducting a noticed public hearing.
- B. Prior to taking action to revoke or amend a CUP or MCUP, a written notice of intention to revoke or amend shall be delivered to the permittee at least ten days before the hearing.
- C. If the planning commission decides to revoke or amend a CUP or MCUP, the planning commission shall adopt written findings via resolution setting forth the basis for the decision.
- D. The permittee may appeal any decision of the planning commission to revoke or amend a CUP or MCUP in accordance with the appeal provisions set forth in this chapter.

- E. Within fifteen days following the date of a decision of the planning commission revoking or amending a CUP or MCUP, the secretary shall transmit to the city council written notice of the decision. The decision shall be final thirty days following the date on which the CUP or MCUP was revoked or amended unless an appeal has been filed.

18.66.130. Termination of permits.

The process to terminate any permit for which the permitted use has not been active for a period of at least one year shall be as set forth in this section.

- A. Termination by property owner by subsequent application. Once an application, including a business license if no entitlement is required, is submitted on a property for which the permitted use has not been active for at least one year, it shall be considered a termination of the use by the property owner.

- B. Terminations initiated by city staff.

1. Notification. If the process to terminate any permit for which the permitted use has not been active for a period of at least one year is initiated by city staff, the property owner and the permittee, if different from the property owner, shall be notified personally or through the U.S. Postal Service at least thirty (30) days prior to any action being taken. The notice shall advise the property owner and the permittee, if different from the property owner, of the city's intent to terminate the use due the use not being active for a period of at least one year. The notice shall also advise the property owner and/or permittee of their right to request a hearing on such termination within ten working days of the date of the notice, and that the termination will become final if a hearing is not requested within such ten working-day period.
2. Planning commission action. If the property owner and/or permittee requests a hearing on the proposed termination, the proposed action to terminate shall be scheduled as a public hearing before the planning commission.

18.66.140. Appeals.

- A. An appeal from a decision of the approval authority shall be in writing and filed with the city clerk within ten working days from the date of the decision, along with the appeal fee in the amount established by the city council. An appeal on a decision of the director shall first go to the planning commission with the further right of appeal to the city council.
- B. An appeal may be filed by the applicant, or any other person aggrieved, and shall specify the decision being appealed and include the reasons for the appeal, along with any supporting evidence.

- C. The city clerk, after the filing of such appeal, shall set a date for a public hearing; giving of notice and conduct of the hearing shall be consistent with the provisions of this chapter for hearing by the planning commission. At the hearing, evidence and testimony may be given by the applicant, the appellant if different than the applicant, and any other member of the public interested in testifying.
- D. The decision appealed from shall be affirmed unless reversed by a vote of not less than a majority of the voting members of the planning commission or city council.
- E. No permit or license shall be issued for any use involved in an application for a CUP or MCUP until the permit has become final by reason of the failure of any person to appeal or by reason of the action of the city council.

SECTION 5. Inconsistencies. Any provision of the La Habra Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 6. Severability. 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 La Habra 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. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2025.

Rose Espinoza
Mayor

ATTEST:

Rhonda J. Barone, CMC
City Clerk

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS.
CITY OF LA HABRA }

I, Rhonda J. Barone, CMC, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. CC 2025-__ introduced at a regular meeting of the City Council of the City of La Habra held on the __ day of _____, 2025, and was thereafter adopted at a regular meeting held on the __ day of _____, 2025, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Said ordinance has been published or posted pursuant to law.

Witness my hand and the official seal of the City of La Habra this __ day of _____, 2025.

Rhonda J. Barone, CMC
City Clerk