

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
AMENDING SAN CARLOS MUNICIPAL CODE, TITLE 18, ZONING, SECTIONS 18.06.020
(COMMERCIAL DISTRICTS LAND USE REGULATIONS), 18.07.020 (INDUSTRIAL
DISTRICTS LAND USE REGULATIONS), AND 18.41.020 (DEFINITIONS).**

SECTION 1: The City Council of the City of San Carlos does hereby ordain as follows:

WHEREAS, the San Carlos 2030 General Plan's Environmental Safety and Public Services Element sets forth Action ESPS-5.6 that directs the City of San Carlos to: "Prepare regulations that address biosafety levels (BSL) for new life science, biotechnology, or other scientific developments to ensure a healthy and safe San Carlos community"; and

WHEREAS, the City of San Carlos is addressing Biosafety Levels (BSL) by adopting an Ordinance to amend San Carlos Municipal Code, Title 18, Zoning, Sections 18.06.020 (Commercial Districts Land Use Regulations), 18.07.020 (Industrial Districts Land Use Regulations), and 18.41.020 (Definitions); and

WHEREAS, the Ordinance amends the San Carlos Municipal Code to amend the Land Use Regulations for Commercial and Industrial Districts to permit BSL 1 and 2 activities and prohibit BSL 3 and 4 activities associated with Research and Development uses; add a definition for Biological Agent and Biosafety Level (BSL); and

WHEREAS, pursuant to Government Code Section 65853 and 65850 and San Carlos Municipal Code Chapter 18.136, when a change in the Zoning Ordinance (Title 18 of the San Carlos Municipal Code) is found necessary, the Planning and Transportation Commission shall hold a public hearing to consider such change and render its decision to the City Council; and

WHEREAS, pursuant to San Carlos Municipal Code Chapter 18.136.030 and California Government Code Section 65090 and 650901, a Public Hearing Notice was published on January 25, 2023 for the item titled, "Consider a Resolution Recommending the City Council Adopt an Ordinance Amendment to the City of San Carlos' Zoning Code Section 18 to Regulate Laboratories with Biosafety Levels (BSL)" in the newspaper; and

WHEREAS, the Planning and Transportation Commission conducted a public hearing on amendments to the San Carlos Municipal Code to hear and consider all comments of all persons interested in or concerned with proposed amendments to the City of San Carlos Municipal Code on February 6, 2023 in consideration of a recommendation to the City Council regarding adoption of an Ordinance. During the meeting, the Planning and Transportation Commission voted to continue the item to the March 6, 2023 Planning and Transportation Commission meeting; and

WHEREAS, pursuant to San Carlos Municipal Code Chapter 18.136.030 and California Government Code Section 65090 and 650901, a Public Hearing Notice was published on February 22, 2023 for the item titled, "Continuation of Consideration of a Resolution Recommending the City Council Adopt an Ordinance Amendment to the City of San Carlos' Zoning Code Section 18 to Regulate Laboratories with Biosafety Levels (BSL)" in the newspaper; and

WHEREAS, the Planning and Transportation Commission conducted a public hearing on amendments to the San Carlos Municipal Code to hear and consider all comments of all persons interested in or concerned with proposed amendments to the City of San Carlos Municipal Code on March 6, 2023 in consideration of a recommendation to the City Council regarding adoption of an Ordinance; and

WHEREAS, pursuant to San Carlos Municipal Code Chapter 18.136.030 and the California Government Code Sections 65090 and 65091, a Public Hearing Notice for the City Council consideration of the Planning and Transportation Commission recommendation on the item titled, "Considering Introducing an Ordinance Amending the City of San Carlos Municipal Code Title 18 to Regulate Laboratories with Biosafety Levels (BSL)" was published on March 16, 2023 in the newspaper; and

WHEREAS, the proposed amendments to the Zoning Ordinance text were released for public review on March 23, 2023 and incorporate the recommendations of the Planning and Transportation Commission as recommended in Resolution of the Planning and Transportation Commission No. PC2023-0005 and

WHEREAS, the City Council conducted a public hearing on amendments to the San Carlos Zoning Ordinance to hear and consider all comments of all persons interested in or concerned with a proposed amendments to the City of San Carlos Municipal Code on March 27, 2023 in consideration of adoption of this Ordinance; and

WHEREAS, the City Council desires to make findings for the proposed amendments to the San Carlos Municipal Code Title 18 Zoning Ordinance relative to implementation of the 2030 General Plan.

SECTION 2: The City Council makes the following findings:

1. The ordinance amendment is consistent with the General Plan.

Basis for finding: The Environmental Safety and Public Services Element of the San Carlos General Plan includes Goal ESPS-5, which states, "Protect the community from the harmful effects of hazardous materials," and Action ESPS-5.6, which states "Prepare regulations that address biosafety levels (BSL) for new life science, biotechnology, or other scientific developments to ensure a healthy and safe San Carlos community." The primary goal of this proposed amendment to Title 18 of the San Carlos Municipal Code is to implement Action ESPS-5.6 by including a definition for Biosafety Levels (BSL), and prohibiting facilities with biosafety levels (BSL) 3 and 4.

2. The ordinance amendment is consistent with the purpose of this Ordinance to promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare.

Basis for finding: The amendments are consistent with the goals, policies, and actions of the San Carlos General Plan and as such continue to allow life science and research and development uses while continuing to protect the public health, safety, peace, comfort, and general welfare.

SECTION 3: Modification of Code. Sections 18.06.020 (Commercial Districts Land Use Regulations), 18.07.020 (Industrial Districts Land Use Regulations), and 18.41.020 (Definitions) of Title 18 – Zoning is hereby modified with the language in Exhibit A, and incorporated into Title 18 of the Municipal Code by this reference.

SECTION 4: Pending Applications. As to applications for facilities with BSL 3 and BSL 4 activities, which have been accepted, processing and review of such applications may continue, but shall be subject to the regulations and requirements listed in Exhibit A, on the date the ordinance becomes effective.

SECTION 5: California Environmental Quality Act Determination. The City Council hereby finds that amendments to the San Carlos Municipal Code are within the scope of the activities and impacts identified in the Focused General Plan Update Final Environmental Impact Report (EIR), and no new environmental effects have been found and no new mitigation is necessary. Therefore, no additional environmental review is required pursuant to Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Section 15162 and 15168.

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 San Carlos hereby declares that it would have adopted this Ordinance and such section, subsection, clause, phrase, or portion may be declared invalid or unconstitutional.

SECTION 7: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 8: This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

* * * * *

I, City Clerk Crystal Mui, hereby certify that the foregoing Ordinance was introduced on 27th day of March, 2023 and adopted at a regular meeting of the City Council of the City of San Carlos held on the ____ day of ____, 2023 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CITY CLERK of the City of San Carlos

APPROVED:

MAYOR of the City of San Carlos

Exhibit A: Changes to Sections 18.06.020 (Commercial Districts Land Use Regulations),
18.07.020 (Industrial Districts Land Use Regulations), and 18.41.020 (Definitions)

EXHIBIT A

AMENDMENTS TO TITLE 18, ZONING, SECTIONS 18.06.020 (COMMERCIAL DISTRICTS LAND USE REGULATIONS), 18.07.020 (INDUSTRIAL DISTRICTS LAND USE REGULATIONS), AND 18.41.020 (DEFINITIONS).

18.06.020 Land use regulations.

Table 18.06.020 prescribes the land use regulations for commercial districts. The regulations for each district are established by letter designations as follows:

“P” designates permitted uses.

“M” designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

“C” designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

“-” designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

TABLE 18.06.020: LAND USE REGULATIONS—COMMERCIAL DISTRICTS

Use Classification	NR	GCI	LC	Additional Regulations
Public and Semi-Public Uses				
Colleges and Trade Schools, Public or Private	-	C(3)	-	
Government Offices	-	C(3)	-	
Instructional Services	P	M(3)	-	
Public Safety Facilities	-	M(3)	-	
Commercial Uses				
Automobile/Vehicle Sales and Services	See subclassifications below			
Automobile/Vehicle Sales and Leasing	-	P	C	See Section 18.23.050, Automobile/vehicle sales and services
Automobile/Vehicle Washing	-	C	-	

Use Classification	NR	GCI	LC	Additional Regulations
Service Station	(1)	P	-	
Banks and Financial Institutions	-	P	C	
Business Services	P	P	P(4)	
Commercial Entertainment and Recreation	See subclassifications below			
Cinema/Theaters	-	P	C	
Large-Scale	-	C	C	
Small-Scale	-	P	P(4)	
Eating and Drinking Establishments	See subclassifications below			
Full Service	M	P	P(4)	See Section 18.23.140, Outdoor dining
Convenience	P	P	C	
Food Preparation	P	P	P(4)	
Lodging	See subclassifications below			
Hotels and Motels	C	C	M	
Maintenance and Repair Services	-	P	P(4)	
Nurseries and Garden Centers	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses
Offices	See subclassifications below			
Business and Professional	P	P	P(4)	
Medical and Dental	-	P	M	
Walk-In Clientele	P	P	P(4)	
Personal Services	See subclassifications below			
General Personal Services	P	P	P(4)	See Section 18.23.170, Personal services
Retail Sales	See subclassifications below			
Building Materials and Services	-	P	M	
Cannabis Dispensary	-	-	-	
Convenience Markets	P	P	M	
Food and Beverage Sales	P	P	M	
General Retail	P	P	P(4)	
Large-Format Retail	-	C	C	See Section 18.23.130, Large-format retail
Price Point Retail	-	P	M	
Second-Hand Store	-	P	M	
Retail Establishments Selling Ammunition or Firearms	C	C	C	See Section 18.23.290, Retail establishments selling ammunition or firearms
Industrial Uses				

Use Classification	NR	GCI	LC	Additional Regulations
Construction and Material Yards	-	C	C	See Section 18.23.160, Outdoor storage
Custom Manufacturing	-	P	M	
Industry, General	-	M	M(6)	See Section 18.23.270, Commercial cannabis businesses
Industry, Limited	-	P	M	
Recycling Facility	See subclassifications below			
Reverse Vending Machine	-	C(3)	-	See Section 18.23.190, Recycling facilities
Recycling Collection Facility	-	C(3)	-	
Research and Development	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses
Research and Development Activities requiring BSL1 and BSL2 containment	<u>P</u>	<u>P</u>	<u>P</u>	
Research and Development Activities requiring BSL3 containment	<u>=</u>	<u>=</u>	<u>=</u>	
Research and Development Activities requiring BSL4 containment	<u>=</u>	<u>=</u>	<u>=</u>	
Salvage and Wrecking	-	C(2)	-	See Section 18.23.160, Outdoor storage
Warehousing and Storage	See subclassifications below			
Indoor Warehousing and Storage	-	C(5)	P(4)(5)	
Outdoor Storage	-	C	-	See Section 18.23.160, Outdoor storage
Wholesaling and Distribution	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses
Cannabis Microbusiness	-	P	-	See Section 18.23.270, Commercial cannabis businesses
Transportation, Communication, and Utilities Uses				
Communication Facilities	See subclassifications below			
Antenna and Transmission Towers	See Chapter 18.24, Wireless Telecommunications Facilities			
Facilities within Buildings	P	P	M	
Freight/Truck Terminals and Warehouses	-	P(3)	-	
Light Fleet-Based Services	-	P(3)	C	
Utilities, Major	-	C(3)	-	
Utilities, Minor	P	P(3)	-	
Other Applicable Types				
Accessory Uses and Structures	See Sections 18.23.030, Accessory uses, and 18.15.020, Accessory buildings and structures			
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots			
Temporary Use	Chapter 18.31, Temporary Use Permits			
Specific Limitations:				

1. Permitted if existing. New service stations are not allowed.
2. Shall be conducted entirely within an enclosed building.
3. Not allowed between Industrial Road and Highway 101 and Skyway Road fronting Highway 101.
4. Permitted by right in existing buildings only; additions or enlargements, tear downs and rebuilds may be considered subject to conditional use permit approval by the Planning Commission.
5. Storage in small individual spaces exclusively and directly accessible to a specific tenant is permitted by right on the condition that such uses occupy no more than five percent of the total square footage of any single building.
6. Uses that require a commercial cannabis business permit are not permitted.

18.07.020 Land use regulations.

Table 18.07.020 prescribes the land use regulations for industrial districts. The regulations for each district are established by letter designations as follows:

“P” designates permitted uses.

“M” designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

“C” designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

“-” designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

TABLE 18.07.020: LAND USE REGULATIONS—INDUSTRIAL DISTRICTS

Use Classification	IA	IL	IH	IP	Additional Regulations
Public and Semi-Public Uses					
Colleges and Trade Schools, Public or Private	C	C	C(8)	-	
Government Offices	-	C	C	C	
Hospitals and Clinics	See subclassification below				
Hospitals	-	-	-	C	

Use Classification	IA	IL	IH	IP	Additional Regulations
Public Safety Facilities	-	M	M	-	
Commercial Uses					
Adult-Oriented Business	C(1)	C(1)	C(1)	-	See Section 18.23.040, Adult-oriented businesses
Animal Care, Sales and Services	See subclassifications below				
Kennels	-	M	-	-	
Veterinary Services	-	M	-	-	
Artist's Studio	P	P	-	-	
Automobile/Vehicle Sales and Services	See subclassifications below				
Automobile/Vehicle Sales and Leasing	-	C(3)	C(5)	C(5)	See Section 18.23.050, Automobile/vehicle sales and services
Automobile/Vehicle Repair, Major	P	P	P	C	
Automobile/Vehicle Service and Repair, Minor	P	P	P	-	
Automobile/Vehicle Washing	-	P	-	-	
Large Vehicle and Equipment Sales, Service and Rental	-	P	P	-	
Service Station	-	P(6)	-	-	See Section 18.23.160, Outdoor storage
Towing and Impound	-	M	M	-	
Vehicle Storage	-	M	M	-	
Business Services	P	P	P	P	
Commercial Entertainment and Recreation	See subclassifications below				
Large-Scale	-	C	C	-	
Small-Scale	-	C	C	-	
Eating and Drinking Establishments	See subclassifications below				
Full Service	-	-	-	M(2)	See Section 18.23.140, Outdoor dining
Convenience	M(2)	M(2)	M(2)	M(2)	
Food Preparation	P	P	-	-	
Funeral Parlors and Interment Services	P	-	-	-	
Maintenance and Repair Services	P	P	P	-	
Nurseries and Garden Centers	-	M	M	-	See Section 18.23.270, Commercial cannabis businesses
Offices	See subclassifications below				
Business and Professional	-	C	C	M	
Medical and Dental	-	C	-	M	
Parking, Public or Private	-	P	P	-	See Chapter 18.20, Parking and Loading

Use Classification	IA	IL	IH	IP	Additional Regulations
Personal Services	See subclassification below				
Tattoo or Body Modification Parlor	M	-	-	-	
Retail Sales	See subclassifications below				
Building Materials and Services	M	M	M	-	
Cannabis Dispensary	-	-	-	-	
Convenience Markets	M(2)	M(2)	M(2)	M(2)	
Food and Beverage Sales	M(2)	M(2)	M(2)	M(2)	
General Retail	M(4)	M(4)	M(4)	M(4)	
Retail Establishments Selling Ammunition or Firearms	C	C	C	C	See Section 18.23.290, Retail establishments selling ammunition or firearms
Industrial Uses					
Construction and Material Yards	P	P	P	-	See Section 18.23.160, Outdoor storage
Custom Manufacturing	P	P	P	-	
Industry, General	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses
Industry, Limited	P	P	P	P	
Recycling Facility	See subclassifications below				
Reverse Vending Machine	P	P	-	-	See Section 18.23.190, Recycling facilities
Recycling Collection Facility	-	C	C	-	
Recycling Processing Facility	-	C	C	-	
Research and Development	P	P	P	P	See Section 18.23.270, Commercial cannabis businesses
Research and Development Activities requiring BSL1 and BSL2 containment	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Research and Development Activities requiring BSL3 containment	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	
Research and Development Activities requiring BSL4 containment	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	
Salvage and Wrecking	M(3)	M	M	-	See Section 18.23.160, Outdoor storage
Warehousing and Storage	See subclassifications below				
Chemical, Mineral, and Explosives Storage	-	C(7)	C(7)	-	
Indoor Warehousing and Storage	P	P	P	-	
Outdoor Storage	P(9)	P	P	-	See Section 18.23.160, Outdoor storage
Wholesaling and Distribution	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses

Use Classification	IA	IL	IH	IP	Additional Regulations
Cannabis Microbusiness	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses
Transportation, Communication, and Utilities Uses					
Communication Facilities	See subclassifications below				
Antenna and Transmission Towers	See Chapter 18.24, Wireless Telecommunications Facilities				
Facilities within Buildings	M	M	M	M	
Freight/Truck Terminals and Warehouses	-	C	P(10)	-	
Light Fleet-Based Services	P	P	P	-	
Utilities, Major	C	C	C	C	
Utilities, Minor	P	P	P	P	
Waste Transfer Facility	-	P	P	-	
Other Applicable Types					
Accessory Uses and Structures	See Sections 18.23.030, Accessory uses, and 18.15.020, Accessory buildings and structures				
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots				
Temporary Use	Chapter 18.31, Temporary Use Permits				

Specific Limitations:

1. Permitted only in the area shown on Figure 18.23.040-B: Adult-Oriented Business Area.
2. Permitted only as an ancillary use. The combined floor area of all eating and drinking uses on a site shall not exceed two thousand five hundred square feet unless a conditional use permit is approved.
3. Shall be conducted entirely within an enclosed building.
4. Permitted only as an ancillary use, not to occupy more than one thousand square feet, unless a conditional use permit is approved.
5. Limited to properties between Industrial Road and Highway 101 and adjacent to Shoreway Road.
6. Limited to alternative fueling stations such as for electric or hybrid vehicles, hydrogen-powered vehicles, and similar vehicles using alternative fuels.
7. Prohibited within five hundred feet of a residential district.
8. Except between Industrial and Highway 101 and Shoreway and Highway 101.
9. Permitted as an accessory use only.
10. Conditional use permit required if adjacent to an R district.

18.41.020 Definitions.

“Bedroom” means any room having the potential of being a bedroom and meeting the standards of the California Building Code as a sleeping room.

“Biological Agent” means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsia or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component

of any such microorganism or infectious substance up to and including Risk Group 3 or Biosafety Level 3 classifications as defined by the National Institute of Health (NIH) or the Center for Disease Control (CDC).

“Biosafety Level (BSL)” means the four ascending levels of containment precautions, referred to as Biosafety Levels 1 through 4, required to isolate dangerous biological agents in an enclosed laboratory facility as set forth in the most current edition of *Biosafety in Microbiological and Biomedical Laboratories (BMBL)* published by the U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC) and National Institutes of Health (NIH), based on the primary risk criteria of infectivity, severity of disease, transmissibility, and the nature of the work being conducted. Each level of containment describes the microbiological practices, safety equipment, and facility safeguards for the corresponding level of risk associated with handling an agent.

“Block” means property bounded on all sides by a public right-of-way.
