

ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO THE AMORTIZATION OF NONCONFORMING SIGNS (PA2019-0184)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program for the portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("LCP") as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City Council adopted Ordinance No. 2016-19 adding Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority as of January 30, 2017;

WHEREAS, Sections 20.42.140 (Nonconforming Signs) and 21.30.065 (Signs) of the NBMC require certain signs that do not conform to the sign regulations to be abated within 15 years ("Amortization Period") from the effective date of the sign code update;

WHEREAS, the Amortization Period was set to expire on October 27, 2020, at which time all nonconforming signs were to be removed;

WHEREAS, on October 22, 2019, the City Council adopted Resolution No. 2019-92 initiating amendments to Title 20 (Planning and Zoning) ("Title 20") and Title 21 (Local Coastal Program Implementation Plan) ("Title 21") related to signs including extending the Amortization Period;

WHEREAS, on March 15, 2020, the City proclaimed a local emergency due to the COVID-19 global pandemic;

WHEREAS, due to the extreme peril upon personal safety that is based on the existence or threatened existence of COVID-19 within and/or around the City, many businesses have been forced to reduce services or temporarily close;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations, Title 14, Division 5.5, Chapter 8, review of the draft LCP Amendment was made available and a Notice of the Availability was distributed on November 6, 2020, which is a minimum of six (6) weeks prior to the final action date;

WHEREAS, a telephonic public hearing was held by the Planning Commission on May 7, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution Nos. PC2020-015 and PC2020-016 by a majority vote (7 ayes, 0 nays) recommending the City Council eliminate the Amortization Period;

WHEREAS, a public hearing was held by the City Council on June 23, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, on June 23, 2020, the City Council adopted Resolution No. 2020-66 to initiate the General Plan Amendment and Coastal Land Use Plan Amendment to eliminate the Amortization Period;

WHEREAS, a telephonic public hearing was held by the Planning Commission on November 19, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with Ralph M. Brown Act and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution Nos. PC2020-042 and PC2020-043 by a majority vote (7 ayes, 0 nays) recommending the City Council approve Zoning Code Amendment No. CA 2019-007 and LCP Amendment No. LC2019-005 to eliminate the Amortization Period;

WHEREAS, a telephonic public hearing was held by the City Council on February 23, 2021, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, on February 23, 2021, the City Council introduced Ordinance No. 2021-05 revising Title 20 (Planning and Zoning) to eliminate the amortization of nonconforming signs (Code Amendment No. CA2019-007) and adopted Resolution No. 2021-16 to eliminate the amortization of nonconforming signs as set forth in the General Plan and adopted Resolution No. 2021-17 authorizing submittal of LCP Amendment No. LC2019-005 to the California Coastal Commission by a unanimous vote (6 ayes, 0 nays); and

WHEREAS, on July 7, 2021, the California Coastal Commission approved LCP Amendment No. LC2019-005 (LCP-5-NPB-21-0036-1 Part B) with no modifications. As a result, LCP Amendment No. LC2019-005 is now deemed approved and became a certified part of the City's Local Coastal Program.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Section 21.30.065(E) (Signs) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC shall be deleted in its entirety.

Section 2: The LCP, including LCP Amendment No. LC2019-005, shall be carried out in full conformance with the California Coastal Act.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The City Council finds the introduction and adoption of this ordinance is exempt pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While LCP Amendment No. LC2019-005 would allow existing legal nonconforming signs to remain in place, it does not authorize new development that would directly result in physical change to the environment. There is no evidence that removal of the Amortization Period would result in any new effects on the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. None of the exceptions listed in Section 15300.2 of the CEQA Guidelines are applicable.

Section 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 14th day of September, 2021, and adopted on the 28th day of September, 2021, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

BRAD AVERY, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Proposed