

**ORDINANCE NO. 2021- 5**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 20.42.140 (NON-CONFORMING SIGNS) TO REMOVE THE AMORTIZATION OF NONCONFORMING SIGNS (PA2019-184)**

**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**, the City comprehensively updated its sign regulations in October 2005, including incorporation of Newport Beach Municipal Code (“NBMC”) Sections 20.42.140 (Nonconforming Signs) and 21.30.065 (Signs), which require certain signs that do not conform to the new 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, however on October 22, 2019, the City Council adopted Resolution No. 2019-92 to initiate an extension of the Amortization Period;

**WHEREAS**, on March 15, 2020, the City proclaimed a local emergency due to the COVID-19 global pandemic, and many businesses have been forced to reduce services or temporarily close;

**WHEREAS**, a public hearing was held telephonically by the Planning Commission due to the Declaration of a State of Emergency and Proclamation of Local Emergency related to COVID-19 on May 7, 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 California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (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 instead of extending the Amortization Period for an additional five years;

**WHEREAS**, a public hearing was held telephonically by the City Council due to the Declaration of a State of Emergency and Proclamation of Local Emergency related to COVID-19 on June 23, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Zoning Code Amendment No. CA2019-007 and Local Coastal Program Amendment No. LC2019-005. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

**WHEREAS**, at the conclusion of the hearing, the City Council adopted Resolution No. 2020-66 to eliminate the Amortization Period and directed staff not to enforce the October 27, 2020 deadline, until such time the City Council has taken final action on the proposed General Plan Amendment and Coastal Land Use Plan Amendment;

**WHEREAS**, General Plan Policy No. LU 1.5 (Economic Health) goal is to, "[e]ncourage a local economy that provides adequate commercial, office, industrial, and marine-oriented opportunities that provide employment and revenue to support high-quality community services";

**WHEREAS**, due to the COVID-19 pandemic, many businesses in the City are facing an economic hardship as a result of being required to reduce services or close temporarily. By eliminating the requirement for nonconforming signs to be removed, the Zoning Code Amendment is consistent with this General Plan policy, as it will reduce the financial burden on businesses during the COVID-19 crisis and assist in the recovery of the local economy;

**WHEREAS**, elimination of the Amortization Period for nonconforming signs is consistent with Title 20 (Planning and Zoning) of the NBMC in that the types of signs that are subject to removal (roof signs, pole signs, internally illuminated signs with translucent faces, and oversized signs) are still prohibited and any alteration to nonconforming signs will be reviewed to ensure compliance with Title 20 (Planning and Zoning);

**WHEREAS**, a public hearing was held telephonically by the Planning Commission due to the Declaration of a State of Emergency and Proclamation of Local Emergency related to COVID-19 on November 19, 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 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 General Plan Amendment GP2020-005, Zoning Code Amendment No. CA2019-007, and Local Coastal Program Amendment No. LC2019-005 to remove the Amortization Period; and

**WHEREAS**, a public hearing was held telephonically by the City Council due to the Declaration of a State of Emergency and Proclamation of Local Emergency related to COVID-19 on February 23, 2021, 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 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

**Section 1:** Section 20.42.140 (Nonconforming Signs.) of Title 20 (Planning and Zoning) of the NBMC shall be amended to read as follows:

**20.42.140 Nonconforming Signs.**

A. Removal of Nonconforming Signs. Nonconforming signs shall be removed if:

1. The nonconforming sign is more than fifty (50) percent destroyed, and the destruction is other than facial copy replacement. A nonconforming sign shall be deemed to be more than fifty (50) percent destroyed if the estimated cost of reconstruction exceeds fifty (50) percent of the replacement cost as determined by the Building Official;
2. The nonconforming sign is remodeled, unless the sign is remodeled to comply with the provisions of this chapter;
3. The nonconforming sign is located on a building that is enlarged or expanded, if the nonconforming sign is affected by the construction, enlargement, remodel, or expansion. An enlargement, remodel, or expansion of the portion of the building upon which the nonconforming sign is located or that is more than fifty (50) percent of the building area shall be deemed to affect the nonconforming sign; or
4. The nonconforming sign is temporary.

B. Deactivation of Flashing Features. The owner of a sign that contains flashing features shall permanently deactivate the flashing features.

C. Continuance of Nonconforming Signs. Except as provided in subsection (A) of this section, a nonconforming sign may be continued and shall be maintained in good condition as required by these regulations, but it shall not be:

1. Structurally changed to another nonconforming sign, although its copy and pictorial content may be changed.
2. Structurally altered to prolong the life of the sign, except to meet safety requirements.
3. Expanded or altered in any manner that increases the degree of nonconformity.

D. Repairing and Repainting. Nonconforming signs shall only be painted and repaired in place and shall not be removed from their existing location, except for building remodeling, unless removal of the sign for painting or repair is part of the sign's customary maintenance and repair.

E. Change of Business Ownership. Upon a change of ownership, the new owner of a nonconforming sign may change the name or names on the sign so long as there is no change in the structure or configuration of the sign.

**Section 2:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 3:** 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 4:** The City Council finds the introduction and adoption of this ordinance is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to 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 this amendment 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.

**Section 5:** 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 6:** 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 23rd day of February, 2021, and adopted on the 9th day of March, 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