



CITY OF

NEWPORT BEACH

City Council Staff Report

June 23, 2020
Agenda Item No. 23

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2020-16: Introduction of a Nonconforming Sign Code
Amendment (PA2019-184)

ABSTRACT:

Nonconforming signs are signs that were permitted, but due to a change in the Newport Beach Municipal Code (NBMC), are no longer meeting the requirements of the code. The NBMC requires certain nonconforming signs to be removed no later than October 27, 2020. The proposed code amendment would allow the City Council to extend the deadline for removal of the nonconforming sign. Conversely, and as recommended by the Planning Commission, the City Council could initiate an amendment to allow for the elimination of the deadline. For City Council's consideration is to decide to either extend the abatement period for five additional years or eliminate the abatement time frame.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find this project categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3;
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2020-16, *An Ordinance of the City Council of the City of Newport Beach, California, adopting Zoning Code Amendment No. CA2019-007 to Amend Section 20.42.140(A) (Nonconforming Signs) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to Extend the Amortization of Nonconforming Signs (PA2019-184) (Attachment A)*, and pass to second reading on July 14, 2020;
- d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2020-17, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Local Coastal Program Amendment No. LC2019-005 to Amend Section 21.30.065(E) (Removal of Nonconforming Signs) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to Extend the Amortization of Nonconforming Signs and Authorize Staff to Submit the Amendment to the California Coastal Commission (PA2019-184) (Attachment B)*, and pass to second reading on July 14, 2020;

or

- e) Adopt Resolution 2020-66, *A Resolution of the City Council of the City of Newport Beach, California, Initiating Amendments to the City of Newport Beach General Plan Natural Resources Element and the Local Coastal Program Coastal Land Use Plan Related to the Amortization of Nonconforming Signs (PA2019-184)* (Attachment C).

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

INTRODUCTION:

In October 2005, the City comprehensively updated its sign regulations. Sign standards changed and certain previously allowed signs were prohibited. Newport Beach Municipal Code Sections 20.42.140 and 21.30.065 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 (October 27, 2005 + 15 years = October 27, 2020). There were approximately 400 legal nonconforming signs in 2005, of which approximately 140 have either brought into conformance or have been removed.

Initiation of Code Amendment

Zoning Code Section 20.66.020 (Initiation of Amendment) provides that a code amendment may be initiated by the City Council with or without a recommendation from the Planning Commission. On October 22, 2019, the City Council adopted Resolution No. 2019-92, thereby initiating the Code and LCP Amendments to consider an extension of the amortization period for nonconforming signs (Attachments D and E). In discussing the initiation of Code and LCP Amendments, City Council provided guidance for an extension period of five years.

Initial Outreach efforts

On March 12, 2020, staff sent letters to 327 property and business owners for properties and/or businesses that were previously identified as having a nonconforming sign. The intent of the letter was to inform them of the pending code amendment to extend the amortization period and to elicit feedback. Several business and property owners contacted staff to communicate that they were unaware of the requirements and to express their concerns that the amortization requirements will negatively impact their businesses and tenants.

Planning Commission Review

On May 7, 2020, the Planning Commission conducted a duly noticed public hearing to consider the request. Staff's complete analysis and recommendation is contained in the attached Planning Commission staff report, dated May 7, 2020 (Attachments F and G). As noted in the Planning Commission staff report, staff's original recommendation was to extend the amortization period for five years.

In response to the initial outreach efforts and public hearing notice, the Planning Commission received 79 pieces of written correspondence (Attachment H) and had seven public speakers. The overwhelming response to the proposal was to extend or eliminate the amortization period.

The Planning Commission expressed concerns that maintaining or extending the amortization period would result in additional financial impacts on businesses that are already suffering during the ongoing COVID-19 pandemic. The Planning Commission further noted that the nonconforming signs are likely associated with businesses that have been in the City for a long time, and natural attrition will result in the eventual removal of the nonconforming signs. After considering all written and oral evidence, the Planning Commission adopted Resolution Nos. 2020-015 and 2020-016 (Attachments I and J) to recommend the City Council amend Section 20.42.140 and delete Section 21.30.065(E) to eliminate the deadline for removal of the nonconforming signs. If adopted by the City Council, the recommendation eliminates the abatement time frame.

DISCUSSION:

A nonconforming sign is a sign that was legally installed, but as a result of changes to the municipal code are no longer allowed. Not only does this include over-sized signs, but also includes the following sign types:

Pole sign: A sign that is supported by a single pole or similar support structure so that the bottom edge of the sign is one foot or more above grade.



Roof sign: A sign that is erected upon or above a roof of a building.



Signs are important to businesses, as it provides a form of advertising and assists customers in locating the business. However, maintaining a unified and appropriate appearance of signs has a direct relationship to the character of the community. As sign regulations change, the elimination of older signs helps achieve the community character. To accomplish this, the use of an amortization period is a common planning tool. The theory behind the amortization period is a nonconforming sign can remain for a specific period of time, thus allowing the owner to recoup their investment before the sign must be abated. In this case, a 15-year amortization period was set in 2005.

Based on community and business input, the Planning Commission felt that requiring removal of nonconforming signs represents a financial burden on business and/or property owners. As such, the Planning Commission is recommending elimination of the amortization period.

Notwithstanding this, elimination of the amortization period would be in conflict with General Plan Policy No. NR21.2 (Illegal Signs and Legal Nonconforming Signs), which states, “*Implement programs to remove illegal signs and amortize legal nonconforming signs*” and with Coastal Land Use Plan No. 4.4.4-4, which states, “*Implement programs to remove illegal signs and amortize legal nonconforming signs.*” Accordingly, staff is presenting the following options for the City Council’s consideration:

Option 1- Extension of the Amortization Period

This option extends the abatement deadline by five years to October 27, 2025, in accordance with City Council’s guidance from October 22, 2019. This option is consistent with the policies of the General Plan and Coastal Land Use Plan. The City Council may choose a different amortization period. For example: The City Council may decide to extend the amortization period to 10 years. To implement this option, the City Council would introduce both attached ordinances (Attachments A & B) to amend Sections 20.42.140(A) and 21.30.065(E) of the NBMC.

Option 2- Elimination of the Amortization Period

This option is the Planning Commission’s recommendation of eliminating any time frame for the abatement of non-conforming signs. To implement this option, the City Council would adopt the attached resolution (Attachment C) initiating a General Plan amendment and Coastal Land Use Plan amendment. Should the City Council initiate these amendments, staff would prepare updates to the relevant policies along with the associated changes to the NBMC to implement the new policies. Staff would then return to the Planning Commission for a final recommendation, and subsequently return to the City Council for adoption.

This option also directs 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.

Local Coastal Plan

The proposed amendments would affect both Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. For properties located in the Coastal Zone, proposed changes would not be effective until certified by the California Coastal Commission (CCC). Therefore, should the City Council determine to either extend or eliminate the amortization period, staff will submit a corresponding ordinance amending the LCP for review and approval by the CCC. The ordinance will become effective immediately upon approval by the CCC; however, should the CCC suggest modifications, staff will return to the City Council with a new ordinance.

ENVIRONMENTAL REVIEW:

The Code Amendment is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Class 5 exemption applies to minor changes in land use limitations, provided the Property has an average slope that does not exceed twenty (20) percent and the changes do not result in change to the permitted land use or density. The Amortization Period is considered a limitation on a land use. The Code Amendment would provide for a minor change by extending the Amortization Period. No new signs would be authorized and no change to existing sign standards would occur. Lastly, there would be no alteration to the conforming status to any sign.

NOTICING:

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP amendment was made available and a Notice of Availability was distributed on April 22, 2020.

Notice of the proposed amendments was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appears on the agenda for this meeting, which was posted at City Hall and on the City Website. Finally, notice was mailed to all property and business owners for properties and/or businesses that were previously identified as having a nonconforming sign; as well as, emailed to all persons that submitted written correspondence regarding this item.

ATTACHMENTS:

Attachment A – Ordinance No. 2020-16
Attachment B – Ordinance No. 2020-17
Attachment C – Resolution No. 2020-66
Attachment D – Resolution No. 2019-92
Attachment E – October 22, 2019 City Council Minutes
Attachment F – May 7, 2020 Planning Commission Staff Report
Attachment G – May 7, 2020 Planning Commission Minutes
Attachment H – Written Correspondence
Attachment I – Planning Commission Resolution No. PC2020-015
Attachment J – Planning Commission Resolution No. PC2020-016