



Staff Report

TO: City Council
FROM: Carole Kendrick, Planning Manager
DATE: September 19, 2023
SUBJECT: Second Reading of an Ordinance Amending the Beaumont Municipal Chapter 17.08 “Nonconforming Uses”

Description Second reading for amendments to Nonconforming Uses Chapter 17.08 of the Beaumont Municipal Code.

Background and Analysis:

Planning staff is proposing updates to the Nonconforming Uses section of the Beaumont Municipal Code to address issues that have been identified recently with several properties, in addition to reducing the period of time in which a nonconforming use or structure can be considered legal nonconforming.

Nonconforming is described in Beaumont Municipal Code Chapter 17.14.060 and generally describes nonconforming uses as previously approved uses that are no longer allowed in the zone. Nonconforming structures are previously permitted structures that may no longer be allowed in the zone and/or do not comply with current development standards.

There have been several instances where a nonconforming use has failed to keep a current business license for a year or longer, but due to the language in the current Nonconforming Uses section of the Municipal Code, staff has been unable to deny renewals for nonconforming uses. The proposed addition of “legal” use and “fails to keep a current business license” will provide staff with the ability to enforce the current zoning code and encourage business owners to keep their business licenses valid.

The loss of nonconforming status is recommended to go from one (1) year to six (months) consistent with most jurisdictions including the surrounding cities of Calimesa, Banning, San Jacinto and Hemet.

Clarifying language has been added to Section 17.08.030.A.1 to include accessory structures and/or improvements that continue the nonconformity. The recommended language will address concerns raised during the building permit plan review process.

Section 17.08.030.B.1 has been updated to reflect the following changes:

Additions to Structures that are 25 percent or Less of the Total Floor Area Excluding Garages. An enlargement, extension, reconstruction or structural alteration of a structure that is nonconforming and does not exceed 25 percent of the existing total floor area, excluding garages, may be allowed if the additions or improvements conform to all other applicable provisions of the development code, and the exterior limits of the new construction do not exceed the applicable height limit or encroach any further into the setbacks than the comparable portions of the existing building. If the nonconforming structure is in a residential zone, the applicant shall provide a certified notification letter to any applicable homeowner association and all adjacent property owners 14 days in advance of approval of a zoning clearance. This provision can only be used once ~~every five years~~. Any additional changes to structure which exceeds a total of 25 percent ~~within five years from the issuance of a building permit~~ may be allowed ~~with~~ subject to approval of a conditional use permit approval.

The proposed modifications to the Nonconforming Uses section of the Beaumont Municipal Code will further advance the vision for the Downtown and the 2040 General Plan and discourage the long-term continuance of nonconformities.

CEQA:

The City has analyzed this proposed project and has determined that is exempt from the California Environmental Quality Act (CEQA) under section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. The proposed ordinance in itself does not relate to any physical project and will not result in any physical change to the environment and does not affect the land use or density limitations of the General Plan. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore, the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Public Communications Received:

A 10-day public notice was placed in the Press Enterprise on August 11, 2023. At the time of report preparation, the Planning Department has not received any letters of comment from the public in favor or opposition to the project. Any comments received prior to the time of the scheduled City Council meeting will be provided to the Council at the time of the public hearing. Proof of publication is included as Attachment C to this staff report.

Planning Commission:

The Beaumont Municipal Code Section 17.02.080.E authorizes the Planning Commission to recommend to the City Council approval, approval with modifications, or denial of the proposed application. The amended nonconforming language was presented to the Planning Commission during a public hearing on August 23, 2023. The Planning Commission by a vote of 3-0 is recommending approval of the amendments to Nonconforming Uses Chapter 17.08 of the Beaumont Municipal Code.

City Council Authority:

The Beaumont Municipal Code Section 17.02.080.G states that upon receipt of a Planning Commission resolution recommendation for approval of a change of zone or zoning ordinance amendment, or denial of a zoning ordinance text amendment, the City Clerk shall set the matter for hearing before the City. At the hearing, the City Council shall review the Commission's recommendation and receive evidence as to how or why the proposed change of zone or zoning ordinance text amendment is consistent with the objectives of this Zoning Ordinance, the City of Beaumont General Plan, and development policies of the City. The City Council shall act to approve or deny the application by resolution.

At the September 5, 2023, City Council meeting, the Council by a vote of 5-0 waived the first full reading and approved the proposed amendment.

Findings:

The Beaumont Municipal Code Section 17.02.080.I requires the City Council to make the following findings of fact before approving a change of zone or zoning ordinance text amendment:

1. That the proposed change of zone or zoning ordinance text amendment is consistent with the goals, policies, and objectives of the General Plan.

The proposed modification to the ordinance is consistent with the goals, policies, and objectives of the General Plan. The proposed amendment will further assist the City in realizing the vision for the Downtown that is included in the 2040 General Plan as Chapter 11.

2. That the proposed change of zone or zoning ordinance text amendment will not adversely affect surrounding properties.

The proposed zoning ordinance text amendment will not adversely affect surrounding properties as it will discourage the use of nonconforming uses and structures.

3. That the proposed change of zone or zoning ordinance text amendment promotes public health, safety, and general welfare and serves the goals and purposes of this Zoning Ordinance.

The proposed zoning ordinance text amendment promotes public health, safety, and general welfare and serves the goals and purposes of the Zoning Ordinance. The reduction in the time that a nonconforming use or structure can retain the pre-existing status will further assist the City in implementing the 2040 General Plan.

Fiscal Impact:

The cost to prepare this staff report is approximately \$300.00.

Recommended Action:

Waive the second reading and adopt by title only “An Ordinance of the City Council of the City of Beaumont Amending the Beaumont Municipal Code Chapter 17.08 ‘Nonconforming Uses’.”

Attachments:

- A. Draft Ordinance
- B. Redlined Draft of Municipal Code Chapter 17.08 “Nonconforming Uses”
- C. Proof of Publication