

# Ordinance Fact Sheet

**TO:** CITY COUNCIL

**DATE:** July 27, 2009

**FROM:** CITY ATTORNEY

**SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING SECTION 17.71.060B OF THE PASADENA MUNICIPAL CODE RELATING TO TERMINATION OF NONCONFORMING USES BY DISCONTINUANCE**

## TITLE OF PROPOSED ORDINANCE

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING SECTION 17.71.060B OF THE PASADENA MUNICIPAL CODE RELATING TO TERMINATION OF NONCONFORMING USES BY DISCONTINUANCE**

## PURPOSE OF ORDINANCE

At its meeting on June 8, 2009, the City Council directed staff to prepare an ordinance to clarify the timeline for legal nonconforming uses. This ordinance will amend Section 17.71.060B of the Pasadena Municipal Code to clarify the termination of a non conforming use because of discontinuance. The ordinance will remove those portions of the Municipal Code relating to the intent to discontinue a use and will instead clarify that a nonconforming use will lose its nonconforming status if it is discontinued for any reason for a continuous period of 12 months.

## REASON WHY LEGISLATION IS NEEDED

The City's Zoning Code is codified in the Pasadena Municipal Code and may only be amended by ordinance.

## PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Planning and Development Department implements the Zoning Code.

## FISCAL IMPACT

Adoption of this ordinance will have no fiscal impact.

MEETING OF 07/27/2009

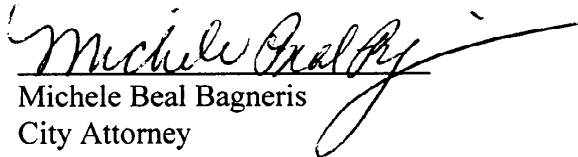
AGENDA ITEM NO. 8.A.1.

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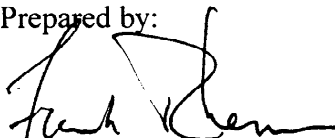
**ENVIRONMENTAL DETERMINATION**

This ordinance is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15060(c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

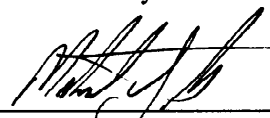
Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney

Prepared by:

  
Frank Rhemrev  
Assistant City Attorney

Concurred by:

  
Michael Beck  
City Manager

Introduced by \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING  
SECTION 17.71.060.B OF THE PASADENA MUNICIPAL CODE  
RELATING TO TERMINATION OF NONCONFORMING USES**

The people of the City of Pasadena ordain as follows:

**Section 1.** Title 17, Article 7, Section 17.71.060, Subsection B, entitled, "Termination by discontinuance", is hereby amended in its entirety to read as follows:

**"B. Termination of nonconforming uses by discontinuance.**

~~1. A nonconforming use that is discontinued or changed to a conforming use for a continuous period of at least 12 months shall not be reestablished, and the use of the structure or site thereafter shall conform to the current provisions of this Zoning Code for the subject zoning district.~~

1. Without any further action by the City, a nonconforming use shall lose its nonconforming status and shall not be reestablished if the nonconforming use is discontinued for any reason for a continuous period of at least 12 months.

~~2. This Section shall not apply to uses which do not comply with the residential density regulations for the subject zoning district.~~

2. A nonconforming use within a structure shall also lose its nonconforming status if the structure is moved any distance on the site for any reason, or is removed from the site.

~~3. Without any further action by the City, a nonconforming use shall not retain the nonconforming protection/benefits provided by this Chapter if:~~

~~a. The nonconforming use of land, or a nonconforming use within a structure, ceases or is discontinued for any reason for a continuous period of at least 12 months:~~

~~(1) A vacant nonconformity may be occupied by a use for which it was designed if so occupied within a period of 12 months after the effective date of this Zoning Ordinance or after the date when the nonconformity first became vacant.~~

~~(2) If the use is discontinued for a continuous period of 12 months or more, the land or structure shall lose its nonconforming status. The use shall be considered~~

discontinued when any of the following apply:

~~(a) The intent of the owner to discontinue use of the nonconformity is apparent;~~  
or

~~(b) Where characteristic furnishings and equipment of the use have been removed and not replaced with equivalent furnishings and equipment during this time.~~

~~(3) 3.~~ The determination of discontinuance (aka abandonment) shall be supported by evidence, satisfactory to the Zoning Administrator (e.g., the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use and not replaced, the turning off of the previously connected utilities, or where there are no business receipts/records or any necessary licenses available to provide evidence that the use is in continual operation).

~~b. The structure in which the nonconforming use is conducted or maintained is moved any distance on the site for any reason, or is removed from the site.~~

4. In an appeal of the Zoning Administrator's determination that the use has lost its nonconforming status by discontinuance, the appellant shall be required to present evidence satisfactory to the Zoning Administrator showing that the use is in continual operation.

~~e. 5.~~ The use of the site after the discontinuance or removal of a nonconforming use shall comply with all current requirements of this Zoning Code and the subject zoning district.

~~2.6.~~ This Section shall not apply to nonconforming uses which do not comply with the residential density regulations for the subject zoning district."

**Section 2.** This ordinance shall take effect upon the expiration of thirty days from its publication.

Signed and approved this \_\_\_\_\_ day of July, 2009

\_\_\_\_\_  
Bill Bogaard  
Mayor of the City of Pasadena

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its regular meeting held on \_\_\_\_\_, 2009, by the following vote:

AYES:

NOES;

ABSENT:

ABSTAIN:

Published:

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Mark Jomsky, CMC  
City Clerk

Approved As To Form:

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Frank L. Rhemrev  
Assistant City Attorney