

Attachment 1

Ordinance

ORDINANCE NO. 16-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
ESTABLISH TIME LIMITS FOR LEGALLY
NONCONFORMING AND CONDITIONALLY PERMITTED
USES TO BE REESTABLISHED ONCE THEY HAVE BEEN
DISCONTINUED

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. On October 22, 2015, and February 25, 2016, the Planning Commission held duly noticed public hearings after which it adopted Resolution No. 1767, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish maximum time limits for abandoned and discontinued legal non-conforming and conditionally permitted uses (collectively, the “Amendments”). On April 5, 2016, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in intensity of land use or density. Further, the areas of the City affected by the Amendments have average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan because establishing a maximum time within which legal non-conforming uses can be reestablished promotes the following policies: General Plan Policy “LU 2.1 “City Places: Neighborhoods, Districts, and Corridors,” which calls for the maintenance and enhancement of the character and aesthetic qualities of the City’s distinctive neighborhoods; General Plan Policy LU 5.8 “Encroachment of Incompatible Land Uses,” which calls for the protection of residential neighborhoods from the encroachment of incompatible nonresidential uses; and General Plan Goal 12 “Business Districts Adjoining Residential Neighborhoods,” which calls for fostering compatible relationships between commercial districts and adjoining residential neighborhoods to ensure that quality of life is maintained.

Section 4. The City Council hereby adds Section 10-3-3806 to Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 38 of Chapter 3 of Title 10 remaining in effect without amendment:

“10-3-3806: TIME LIMITS FOR A DISCONTINUED CONDITIONALLY PERMITTED USE:

A. If a use, which requires a conditional use permit, has been discontinued for a period of five years, the use shall not be reestablished unless a new conditional use permit is granted pursuant to the provisions set forth in this Article. For purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of the use.

1. Exceptions:

a. Owners of properties impacted by circumstances that are out of the property owner’s control, including, but not limited to, government regulations, the presence of hazardous substances on the property that must be removed in order for the property to be developed with the approved use, or an extended statewide economic

downturn, may request an extension of the five year period from the Planning Commission. The Planning Commission must make the following finding in order to grant an extension:

- i. The Conditionally Permitted use is not substantially adverse to the public health and safety of the neighborhoods adjacent to the property.
- b. Residential uses.
- c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.
- d. Reestablishment of a conditionally permitted use may occur after the passage of five years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the five-year time limit, provided the application is subsequently approved by the City.”

Section 5. The City Council hereby adds Subsection (c) to Section 10-3-4101 of Article 41 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows with all other provisions in Article 41 of Chapter 3 of Title 10 remaining in effect without amendment:

“10-3-4101: NONCONFORMING USES:

- C. Time Limits for a Discontinued Nonconforming Use: If a nonconforming use of a building or land has been discontinued for a period of five years, the nonconforming use shall not be reestablished. Subsequent use of the building and/or land shall conform to the regulations of the zone in which the land is located. For the purposes of determining whether a use has been discontinued, the property owner shall have the burden of proof in demonstrating a continuation of use.

1. Exceptions:
 - a. Owners of properties impacted by circumstances that are out of the property owner's control, including, but not limited to, government regulations, the presence of hazardous substances on the property that must be removed in order for the property to be developed with the approved use, or an extended statewide economic downtown, may request an extension of the five year period from the Planning Commission. The Planning Commission must make the following finding in order to grant an extension:
 - i. The nonconforming use is not substantially adverse to the public health and safety of the neighborhoods adjacent to the property.
 - b. Residential uses.
 - c. Medical uses. Such uses shall be governed by Beverly Hills Municipal Code Section 10-3-1620.1.
 - d. Reestablishment of a nonconforming use may occur after the passage of five years, provided that a complete application for either a planning entitlement or building permit associated with such reestablishment has been filed prior to expiration of the five-year time limit, provided the application is subsequently approved by the City.”

Section 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 7. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code,

shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE
Director of Community Development