



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: August 25, 2020 Meeting date: September 14, 2020

Subject: Temporary Waiving of Certain Sign Regulations to Assist Businesses and Other Uses during COVID-19

RECOMMENDED ACTION: Adopt Ordinance No. 471U implementing temporary signage regulations to accommodate business, institutional and other non-residential operations during the period of local emergency relating to COVID-19, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

FISCAL IMPACT: Ordinance No. 471U proposes to waive any fee for permits issued pursuant to the ordinance. In accordance with the Adopted Fee Schedule for Fiscal Year 2020-2021, the City currently charges \$43 for a temporary sign permit. In addition, if a business wishes to place a temporary sign in the public right-of-way pursuant to the proposed urgency ordinance, it may need an encroachment permit at a cost of \$468. The increase in permit fees for the temporary signs and encroachments that may result from the implementation of the proposed urgency ordinance was not included in the City's Adopted Budget for Fiscal Year 2020-2021. The amount of potential permit fee revenue that will be waived pursuant to the proposed urgency ordinance is not known at this time. It is anticipated that the fees waived will be more than offset by the sales tax revenue that will be maintained or created with the help of additional business signage.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021. If approved, this project would be part of emergency staff operations.

BACKGROUND: On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in response to the increased spread of COVID-19. Additionally, on March 4, 2020, the Los Angeles County Board of Supervisors and the Los Angeles County Department of Public Health all declared a local and public health emergency in response to the increased spread of COVID-19 across the country and in Los Angeles County. On March 22, 2020, the President of the United States declared a major disaster for California for the COVID-19 pandemic.

On March 19, 2020, the Governor issued Executive Order N-33-20 ordering all residents of California to stay home except as needed to maintain the operations of critical infrastructure sectors. The County issued a series of orders that mirrored and expanded on the Governor's Executive Order. The City is subject to the orders of the Los Angeles County Department of Public Health.

On April 14, 2020, the State presented its Resilience Roadmap, a four-stage plan for modifying the State's stay-at-home order. On May 4, 2020, the Governor issued Executive Order N-60-20, which informed local health jurisdictions and industry sectors that they may gradually reopen under new modifications and guidance provided by the State Public Health Officer on May 7, 2020. On May 26, 2020, as part of this phased reopening strategy, the County issued a new Order easing restrictions on certain activities and on May 29, 2020, the State approved the County's application to move into advanced Stage 2.

On June 12, 2020, the County issued a revised Order, which allowed the re-opening of day camps, gyms and fitness centers, spectator-free professional sports, museums, tourist facilities, campgrounds, and entertainment production.

On June 18, 2020, the County Order was modified even further to allow for nail salons, tattoo shops, casinos, bars and wineries to open with limited capacity and infection control safeguards. The County also created industry-specific reopening protocols for sectors, including parks and recreational facilities. These sectors have been permitted to reopen if specific safety protocols are implemented including social distancing and cleaning/sanitizing measures to prevent the further spread of COVID-19.

However, on June 28, 2020, due to a spike in COVID-19 cases and hospitalizations, the State and the County amended the previous orders to require that all bars, breweries, wineries and tasting rooms close if they offered dine-in, sit-down meals. The County stated that the timing of the spike in new cases was in line with the opening of these sectors. When these sectors were closed, there were 1,350 to 1,450 daily hospitalizations in Los Angeles County. But after two weeks of being open, the number of people hospitalized in Los Angeles increased by more than 20 percent and the seven-day average daily positivity rate in Los Angeles County increased from 5.8% to 8.7%.

In addition to the amended Order that closed bars and breweries, the County issued orders to close all beaches, beach parking lots, bike paths, piers, and access ways countywide, effective Friday, July 3, 2020, through Monday, July 6, 2020, to prevent crowding over the holiday and slow the spread of COVID-19. Surfing, walking, jogging, kayaking, paddleboarding or any other recreational activities or gatherings were also prohibited at any State or County beach. The revised Order also prohibited all private and public fireworks countywide.

On July 1, 2020, the County backtracked even further closing indoor dining, indoor museums, zoos and aquariums, and card rooms. On July 13, 2020, the Governor announced that counties on the State's Monitoring List for three consecutive days, which includes Los Angeles County, must also close indoor operations at fitness centers, places of worship, indoor protests, offices for non-critical infrastructure sectors, personal care services, hair salons and barbershops, and malls, unless they can be modified to operate outside or by pick-up.

While social distancing and the abovementioned measures are necessary to fight the global pandemic, they have had, and are expected to continue to have, extreme economic and social and mental health impacts. The local business community has experienced a rapid and sharp decline in business activity due to the pandemic and accompanying change in consumer behavior. Residents are often uncertain about whether certain community institutions and non-residential uses, such as parks, churches and governmental offices, are open or available and what operational modifications are in effect, such as the requirement for an appointment.

On August 10, 2020, to help address the impact of the pandemic and the Los Angeles County Public Health orders on local businesses, Council directed staff to develop an urgency ordinance similar to that which was put into effect in the City of South Pasadena to temporarily waive certain sections of Malibu Municipal Code (MMC) Section 17.52 regulating signage during the COVID-19 pandemic and to include provisions ensuring the removal of temporary signs, using the City's existing sign inventory as appropriate. Non-residential community uses have also been captured in the urgency ordinance to increase residents' awareness of available amenities and services and operating requirements.

DISCUSSION: The MMC prohibits many types of signage. Ordinance 471U (Attachment 1) is intended to ease certain sign regulations to support the financial recovery of the local business community and ease the isolating effects of the stay home orders on residents. Under the proposed ordinance, certain signs would be allowed if approved by the Planning Department and, if needed, by the Public Works Department. The ordinance would allow business owners and non-residential use operators to install up to two temporary signs. Temporary signs may include portable signs (A-frame or sandwich board type signs), wall signs, window signs and banners for purposes of advertising a business or non-residential use located within the City. All temporary signs are subject to the restrictions in MMC

Chapter 17.52.40 except as expressly allowed by the proposed ordinance. All other provisions of MMC Chapter 17.52 would remain in effect.

The propose ordinance would also allow placement of up to one temporary sign in the public right-of-way or in a private street or easement.

The proposed revisions to the City's sign regulations are intended to provide local businesses temporary assistance in promoting their businesses and attracting customers, and community members information about available non-residential community uses and facilities. This could provide important exposure for businesses and uses that people would otherwise assume are closed. The temporary sign permits would not require the specific text or message to be shown, only the size and location of the sign. So, the types of temporary and portable signage could be especially effective since they could allow business owners and use operators to change the messages or remove the signs quickly as needed in response to changes in the Health Orders and operating requirements.

ATTACHMENTS:

1. Ordinance No. 471U
2. Public Hearing Notice

ORDINANCE NO. 471U

AN URGENCY ORDINANCE OF THE CITY OF MALIBU IMPLEMENTING TEMPORARY COMMERCIAL SIGNAGE REGULATIONS TO ACCOMMODATE BUSINESS OPERATIONS DURING THE PERIOD OF LOCAL EMERGENCY RELATING TO COVID-19, FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the Malibu does ordain as follows:

SECTION 1. Purpose and Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (COVID-19).
- B. On March 4, 2020, Governor Newsom declared a state of emergency, and the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency, respectively, in response to the COVID-19 pandemic.
- C. On March 14, 2020, the Director of Emergency Services proclaimed the existence of a local emergency pursuant to Malibu Municipal Code section 2.52.060, which the City Council ratified on March 16, 2020.
- D. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all individuals living in the State of California to stay at home except as needed to maintain continuity of operations of the federal critical infrastructure sectors.
- E. As part of the pandemic response, in March and April 2020, the Los Angeles County Health Officer issued a series of orders that required the closure of most local businesses, including restaurants and retail stores.
- F. On April 17, 2020, Governor Newsom announced that the State of California was in a pandemic-induced recession as 3.1 million Californians had filed for unemployment benefits over the last month, surpassing the total number of claims in all of 2008 at the start of the Great Recession.
- G. On June 3, 2020, the County of Los Angeles Board of Supervisors adopted a Resolution Amending and Restating the Chair of the Board’s Executive Order for an Eviction Moratorium, which found that COVID-19 is causing, and is expected to continue to cause, serious financial impacts to Los Angeles County residents and businesses, including substantial loss of income due to illness, business closures, and loss of employment, all of which can exacerbate a community’s vulnerability to the pandemic by creating economic and social instability.

- H. In response, cities throughout the County have adopted temporary economic emergency relief and recovery programs to temporarily suspend local zoning ordinances and provide for modified uses of public and private property that enable local businesses to operate in accordance with public health orders during the pandemic.
- I. On June 8, 2020, the Malibu City Council adopted such a measure, Ordinance No. 465U, implementing a temporary restaurant recovery program that allows local restaurants to alter their operations to facilitate physical distancing and increase outdoor dining options to protect the public health and prevent avoidable business closures.
- J. Beginning on June 28, 2020, based on changes in the number of daily local COVID-19 cases, hospitalizations, and infection rates, the County Health Officer adopted a series of orders that closed certain high-risk businesses that had recently re-opened with operational modifications.
- K. On August 10, 2020, the City Council directed City staff to develop an urgency measure that temporarily suspends provisions of the Malibu sign ordinance to further assist local businesses during the period of local emergency.
- L. Chapter 17.52 of the Malibu Municipal Code prohibits many types of commercial signage and imposes lengthy permitting requirements at odds with the City's current effort to help businesses survive the pandemic-induced economic crisis.
- M. Allowing these businesses to temporarily use portable signs, banners, or comparable signage would enable business owners to readily communicate with the public about changes in business operations necessitated by the latest Health Officer Orders, including whether a store or restaurant is open for business.
- N. The City Council finds that economic stability is necessary for the health and safety of a community and adopts this ordinance pursuant to section 8634 of the California Government Code as necessary for the protection of life and property in Malibu. The necessary public health response to COVID-19 has resulted in prolonged restrictions on many types of economic activity, and these restrictions are constantly changing as local health conditions change. The "new normal" has forced communities to adapt quickly to mitigate the devastating impacts of COVID-19. In addition to expanding outdoor operations, many businesses that can operate safely during the pandemic require different ways of promoting their businesses and communicating with the public as the rules of conduct for a local economy continue to change.
- O. The Malibu City Council further finds that, as part of the City's pandemic response, this ordinance is necessary for the immediate preservation of the public peace, health and safety based on the foregoing facts constituting the urgency.

SECTION 2. Temporary Commercial Sign Regulations.

A. Temporary Commercial Signs.

1. Notwithstanding provisions of Malibu Municipal Code Chapter 17.52 to the contrary, during the period of local emergency declared in response to COVID-19, business owners may use a portable sign, wall sign, and window sign as defined in Section 17.52.030 of the Malibu Municipal Code, and collectively called “temporary signs,” for purposes of advertising a business located within the City, subject to the restrictions set forth herein.
2. A business owner may display no more than two temporary signs for the duration of this ordinance.
3. A portable sign within the meaning of a temporary sign includes A-frame type signs and excludes any signs attached to a vehicle.
4. Temporary signs may include a banner not exceeding twenty (20) square feet in area and placed on the exterior wall of the building within which the subject business is located.
5. Temporary window signs shall be limited to 20 percent of the window area on which they are displayed.
6. All temporary signs are subject to the restrictions in section 17.52.040 of the Malibu Municipal Code except as expressly allowed by this ordinance.

B. Temporary Sign Permits.

1. A business may place a temporary sign in the public right-of-way upon securing a temporary sign permit from the Planning Department.
2. A business may place no more than one temporary sign in the public right-of-way.
3. A permit for temporary signs shall be subject to the Planning Director’s administrative approval.
4. Any fee for a permit issued pursuant to this ordinance shall be waived during the period of local emergency.

C. Existing Requirements and Termination.

1. The authorization for temporary signs does not relieve business owners

from any conditions of approval included in existing sign entitlements other than those which are directly addressed by the Temporary Sign Permit.

2. All temporary commercial signs must be removed within 72 hours of the termination of this ordinance or the termination of the issued Temporary Sign Permit.

D. Violations

1. In addition to all other remedies, violations of a Temporary Sign Permit or this ordinance are subject to the administrative fine provisions of Chapter 1.10 of the Malibu Municipal Code.
2. A Temporary Sign Permit may be modified or terminated by the City for any of the following reasons:
 - a. Violation of any applicable law, rule, ordinance, or order;
 - b. Disturbance of the quiet enjoyment of nearby residents;
 - c. Objection by law enforcement agencies; or
 - d. If continued use of a temporary sign is inconsistent with State or local public health directives or is found to negatively impact the public's health, safety, or welfare.
3. Should a Temporary Sign Permit be modified or terminated pursuant to subsection (2) of this Section, the permit holder shall be provided notice of the reason for modification or termination by: (1) mailing notice to the address of the business, (2) delivering notice to the business manager or staff on duty at the business, or (3) mailing or delivering the notice to the permit holder or property owner. The permit holder may request reconsideration of the modification or termination by providing written evidence or argument to the City Clerk at cityclerk@malibucity.org within five days of the mailing or delivery of the notice by the City, whichever is earlier in time. The permit holder must immediately comply with the modification or termination, except that if a request for consideration is timely delivered to the City the temporary sign need not be removed until 10 days after the date notice of the modification or termination was mailed or delivered by the City, whichever is earlier in time.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this ordinance.

SECTION 4. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304(e) of the CEQA Guidelines, regarding minor temporary uses of land. The ordinance allows local businesses to use temporary commercial signs to alert members of the public to business activity during the COVID-19 pandemic. In addition to being temporary in nature, the action is limited to commercial use of portable signs, such as sandwich boards and banners, that are readily removed and will not have any lasting impact on the physical environment. Accordingly, the activity is also exempt under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (14 Cal. Code Regs., § 15061(b).) Finally, as part of the City's response to the pandemic-induced recession, this ordinance is designed to help local businesses survive the pandemic without compromising the public health. Economic stability is a critical part of stabilizing the spread of COVID-19, and as public health orders change according to the number of daily local COVID-19 cases, hospitalizations, and infection rates, allowing businesses to use temporary signs is critical to keeping the public informed as to ongoing business activity. Implementation of the ordinance is thus exempt under the statutory exemption for actions necessary to prevent or mitigate an emergency. (Public Resources Code § 21080(b)(4); 14 Cal. Code Regs., § 15269(c)).

SECTION 5. Urgency Declaration; Effective Date.

For the reasons set forth herein, the City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety. The public health response to COVID-19 has required the closure or reduced the operations of many businesses, resulting in staggering unemployment and loss of income that has plunged the nation into a recession. Local governments are called upon to work with health officials and the State to mitigate the devastating impacts of the pandemic, as the instability created by the current economic crisis can exacerbate a community's vulnerability to the current health crisis. Therefore, the Malibu City Council adopts this ordinance pursuant to section 8634 of the California Government Code, as necessary for the protection of life and property and the stability of the local economy. As the economic relief contemplated by this action is directed toward the urgent need for economic relief and recovery, the Council further finds that the immediate preservation and protection of the public peace, health, and safety requires that this ordinance be enacted as an urgency measure, and pursuant to Government Code section 36937, shall take effect immediately upon adoption by four-fifths of the City Council.

SECTION 6. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this ___ day of September 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, September 14, 2020, at 6:30 p.m.** on the proposed ordinance identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised August 12, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

How to View the Meeting: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

How to Participate Before the Meeting: Members of the public are encouraged to submit email correspondence to citycouncil@malibucity.org before the meeting begins.

How To Participate During The Meeting: Members of the public may also speak during the meeting through the online Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

TEMPORARY WAIVER OF CERTAIN SIGN CODE REQUIREMENTS

The City Council will consider adopting an urgency ordinance to temporarily waive provisions of Malibu Municipal Code Section 17.52.040 (Prohibited Signs), adopt temporary commercial signage regulations to inform the public and accommodate business operations during the period of local emergency relating to COVID-19, and find that the action is exempt from the California Environmental Quality Act.

Location: Citywide
Case Planner: Bonnie Blue, Planning Director
(310) 456-2489, extension 258
bblue@malibucity.org

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, at (310) 456-2489, extension 258.

BONNIE BLUE
Planning Director

Publish Date: August 27, 2020