

ORDINANCE NO. 2023 –

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA,
AMENDING TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE TO CREATE
AN INTERIM USE ORDINANCE RELATED TO THE USE OF NONCONFORMING
BUILDINGS WITHIN THE CITY.**

WHEREAS, the City of National City (the “City”), pursuant to the police powers delegated to it by the California Constitution, has the authority to enact or amend laws which promote the public health, safety, and general welfare of its residents; and

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code; and

WHEREAS, on November 7, 2022, a noticed public hearing was held by the Planning Commission, and all persons interested were given the opportunity to appear and be heard before the National City Planning Commission; and

WHEREAS, the Planning Commission regularly and duly certified its report to the City Council of National City and has recommended approval of amending NCMC Title 18: and

WHEREAS, pursuant to a published 10-day notice of the adoption of said ordinance, a public hearing was held by the City Council on March 21, 2023, and at said public hearing, all persons interested were given the opportunity to appear and be heard before the City Council.

NOW, THEREFORE, the City Council of the City of National City does ordain as follows:

Section 1. All protests, if any, against said amendment to the Municipal Code and each of them be and hereby are denied and overruled.

Section 2. Section 18.11 (Nonconforming uses, structures, and parcels) is hereby amended to read as follows:

18.11.120 – Interim Uses.

A. Purpose. To provide a process for the temporary use of buildings that were previously legal nonconforming and lost their nonconforming status due to lack of use and establish a set amount of time for their use in the interim period between the current nonconforming situation and the eventual redevelopment of the property. The interim use will require administrative review in order to evaluate the compatibility of the proposed use with surrounding uses and the suitability of the use to the site.

B. Applicability. An interim use permit is required to authorize proposed interim land uses as being allowable in the applicable zoning district subject to the approval of an interim use permit.

C. Application Requirements. An application for an interim use permit shall contain all information required by the city manager or his/her designee necessary to determine compliance with the Land Use Code and to accomplish the requirements of this section, including the means to provide notice of the application. It is the responsibility of the applicant to provide evidence in support of the findings required by this section. A nonrefundable fee in such amount as the city council shall from time to time establish by resolution shall be paid to the finance officer at the time of filing. The application shall include a timeline for eventual redevelopment of the property.

D. Notice of Application.

1. The designated staff person shall mail notice of the application no later than ten days after an application has been deemed complete to:

a. The applicant; and

b. The owners of any real property, as shown on the latest equalized property tax assessment roll of the San Diego County Assessor, located within three hundred feet of the boundary of the property that is the subject of the application.

E. Contents of the Notice of Application.

1. The notice of application shall include at least the following information:

a. A general description of the proposed use, including activities and duration of the use.

b. The location and size of the property that is the subject of the application.

c. The name, telephone number, and city address of the designated staff person to contact for additional information.

d. An explanation that an interim use permit is an administrative process whereby the decision to approve, conditionally approve, or deny the proposed development will be made by the planning division without a public hearing.

e. An explanation of the process to appeal the decision.

F. Requests for Notice of Decision. Persons who wish to receive notice of the approval or denial of the application may request this information from the staff person indicated in the notice of application. The request must be received no later than ten business days after the date on which the notice of application is mailed.

G. Findings and Decision. The planning division may approve or deny an application for an interim use permit. The designated staff person shall record the decision and the findings on

which the decision is based. The planning division may approve an interim use permit only after first finding all of the following:

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
4. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

H. Issuance of Permit and Duration.

1. Upon the approval of an application, the planning division shall authorize the issuance of an interim use permit, with or without conditions, and one copy of which shall be forwarded to each of the following:

- a. The applicant;
- b. The building official;
- c. Any other department or agency the planning division considers affected by the issuance of the permit; and
- d. The division files for permanent retention.

2. Interim use permits shall be in effect for five years, at which time up to two annual extensions may be granted for a total of seven years. Application for an extension shall be subject to a nonrefundable fee, in such amount as established by the city council from time to time by resolution and in effect at the time of filing of the extension. Extensions exceeding two additional years or seven total years may be requested and require a public hearing and approval by the Planning Commission.

3. No expansion of the premises shall be permitted.

I. Conditions of Approval. In approving an interim use permit, the planning division may impose any conditions deemed reasonable and necessary to ensure that the approval would comply with the findings required by this section.

J. This Code section shall be in effect for 15 years from time of adoption, at which time the Interim Use Permit program will cease and all issued Interim Use Permits shall be null and void.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 4. This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the City Council voting for and against the same in the Star News, a newspaper of general circulation published in the County of San Diego, California

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall publish in accordance with the law.

Section 6. Introduced at a Regular Meeting of the City Council of the City of National City, held on this ____ day of ____, 2023.

PASSED and ADOPTED this ___ day of April, 2023.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, MMC, Interim City Clerk

APPROVED AS TO FORM:

Barry J. Schultz
City Attorney