

## **ORDINANCE NO. 2245**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AMENDING SECTION 5.92.120 (EXISTING NONCONFORMING USES) OF TITLE 5 (BUSINESS REGULATION AND LICENSES) AND USING THE COMMON SENSE EXEMPTION PURSUANT TO CEQA**

**WHEREAS**, on October 9, 2023, the Planning Department received a written request from Imperial Projects, Inc. dba Bare Elegance, to strike certain language from Section 5.92.120 of the Hawthorne Municipal Code (HMC);

**WHEREAS**, HMC Section 5.92.120 addresses nonconforming adult uses and prohibits such uses from increasing, enlarging, extending or other alterations to the use except that the use become conforming, and applied only to adult uses;

**WHEREAS**, HMC Section 5.192.120 also declares that any adult business lawfully existing as of the effective date of that section's adoption is a nonconforming use;

**WHEREAS**, the two parts of HMC Section 5.92.120 are mutually incompatible by virtue of the fact that an adult use cannot be enlarged except by becoming conforming, and simultaneously cannot become conforming without ceasing to be an adult use;

**WHEREAS**, nonconforming land uses are regulated by HMC Chapter 17.38;

**WHEREAS**, HMC Section 17.38.030 provides that a nonconforming use cannot be expanded to occupy additional space except by obtaining a conditional use permit (CUP);

**WHEREAS**, The requestor of this amendment, Imperial Projects, Inc. applied for a CUP to refurbish the interior and exterior of the adult business known as Bare Elegance, which includes a proposed expansion of the floor area;

**WHEREAS**, removal of the language in HMC 5.92.120 that prohibits adult uses from expanding will not change the nonconforming status of the adult use, Bare Elegance, which is the only adult use in the City;

**WHEREAS**, removal of the language in HMC 5.92.120 that prohibits adult uses from expanding will subject the proposed refurbishment project at the Bare Elegance site subject to a CUP if the floor area is expanded;

**WHEREAS**, CUP applications are discretionary applications decided by the Planning Commission and appealable to the City Council;

**WHEREAS**, the City Council of the City of Hawthorne wishes now to adopt Ordinance No. 2245 to amend Section 5.92.120 of Title 5 as described below.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are true and correct.

**SECTION 2.** Section 5.92.120 shall be amended as follows:

**5.92.120 Existing nonconforming uses**

Any adult business lawfully existing as of the effective date of the ordinance establishing this chapter becomes a nonconforming use by reason of the adoption of this chapter. ~~No nonconforming use shall be increased, enlarged, extended or altered except that the use, or any portion thereof, may be changed to conforming use.~~

**SECTION 3. CEQA.** It can be seen with certainty that there is no possibility that the amendment described in this ordinance may have a significant effect on the environment, the activity is not subject to further CEQA action. This Common Sense Exemption applies to the amendment of HMC Section 5.92.120 and not to any subsequent conditional use permit or other discretionary action that may rely on this amendment.

**SECTION 4. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any 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 each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5. AUTHORIZATION TO PUBLISH SUMMARY OF ORDINANCE.** Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Hawthorne Press Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Hawthorne Press Tribune.

**SECTION 67. EFFECTIVE DATE.** This ordinance shall take effect 30 days after passage thereof.

**PASSED, APPROVED AND ADOPTED** this 14th day of November 2023.

**ATTEST:**

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ALEX VARGAS, Mayor  
City of Hawthorne, California

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DAYNA WILLIAMS-HUNTER, City Clerk  
City of Hawthorne, California

**APPROVED AS TO FORM**

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ROBERT KIM,  
City Attorney  
City of Hawthorne, California