

**TO: Timothy Riley, Fire Chief-City of Newport Beach
Homer Bludau, City Manager-City of Newport Beach**

SUBJECT: Drug & Alcohol Rehab Business on Residential Property- Zoning Code Violations

This letter, delivered via certified mail to the Fire Chief and City Manager, formally and legally notifies the City of violations of the City Zoning Code. To date, prior letters of complaint sent by numerous residents have resulted in no action. This letter serves as an official and legal request for immediate enforcement of the Newport Beach City Zoning Code, and declaration of nuisance & abatement. Specific issues and Zoning Code citations follow.

In a letter received from Fire Marshall Dennis Lockard dated November 25, 2003 he stated,
“...a fire clearance has been granted to Narconon Southern California Inc., for the address of 1810 W. Ocean Front with the following conditions:

1. The previous ambulatory capacity of 32 persons shall be amended to a total ambulatory capacity of 27 persons, which includes staff and clients.”

Narconon, Inc. (1810 W. OceanFront) is a Drug and Alcohol Rehabilitation Business operating in a residential property/district. It is defined in city code as a ‘Residential Care, General’ business. “ Twenty-four-hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. This classification includes only those services and facilities licensed by the State of California.” [NB Zoning Code 20.05.040]

‘USE PERMIT’ REQUIRED FOR ‘RESIDENTIAL CARE, GENERAL’

NB Zoning Code 20.10.020 – Requires a ‘Use Permit’ for ‘Residential Care, General’ facilities. Narconon has never been issued a Use Permit. Code 20.10.010 details the specific purposes of a Use Permit including, “... protect residents from harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects.” The City Zoning Code requires that the city conduct a through environmental and residential impact review, public hearing, and secure approval by the City Planning Commission for these facilities. This has not been done.

‘FIRE CLEARANCE’ APPROVED WITHOUT ‘USE PERMIT’

Narconon does not have the required city Use Permit for operation. Why did the Fire Dept. issue a fire clearance last month for this facility to operate without the required city Use Permit?

VIOLATION OF ‘OFF-STREET PARKING’

NB Zoning Code 20.66.030 – Allows only *three beds per one off-street parking space* for ‘Residential Care, General’ facilities. The Narconon facility at 1810 W. Ocean Front only contains 3 off-street parking spaces. The maximum bed capacity of this facility is 9 beds, NOT the 27 beds permitted by Fire Marshall’s amended total on November 25, 2003, Why did the City Fire Department issue a Fire Clearance and amended capacity for 27? And why has the city allowed Narconon to operate with 27-45 beds for years, when the maximum should be 9?

‘CERTIFICATE OF OCCUPANCY/CAPACITY’ WITHOUT ‘USE PERMIT’

NB Zoning Code 20.91.015 - No Certificate of Occupancy may be issued without a Use Permit. Again, Narconon holds no city Use Permit, but does have a Certificate of Occupancy. Why has occupancy/capacity been issued/amended without a required city Use Permit? “No certificate of occupancy shall be issued in any case where a use permit or variance is required by the terms of this code unless and until such use permit or variance has been granted by the Planning Director or the Planning Commission or by the affirmative vote of the City Council on appeal or review and then only in accordance with the terms and conditions of the use permit or variance granted.”

'CITY BUSINESS LICENSE' ISSUED WITHOUT 'USE PERMIT'

The city of Newport Beach has annually issued a City Business License to Narconon for operation as a 'Specialty Hospital' at 1810 W. OceanFront without a required Use Permit. This violates Code 20.10.020. A specialty hospital in a residential property without a Use Permit?

NARCONON LEASES ADDITIONAL RESIDENTIAL PROPERTY WITHOUT USE PERMIT, BUSINESS LICENSE, CERTIFICATE OF OCCUPANCY, FIRE CLEARANCE NOR STATE LICENSE

Narconon has **expanded** their business into an additional residential property at 1811 W. Balboa Blvd. – across the alley from their original location of 1810 W. Ocean Front. Prior letters of complaint regarding this illegal expansion were forwarded to the Fire Marshall on October 27, 2003, and to the City Assistant Manager and Planning Department Director on October 23, 2003. Significant evidence is available upon request, including a letter from the owner of this additional residential property verifying his rental leasing to Narconon. [attached]

√ There is NO City Use Permit on file for this additional address. (Code 20.91.015)

√ There is NO City Business License on file for this additional address- and a 'Use Permit' would be required to issue a Business License. (Zoning Code 20.91.015)

√ There is NO Certificate of Occupancy on file for this additional address- and a 'Use Permit' would be required to issue such a Certificate. (Zoning Code 20.91.015)

√ There is NO Fire Clearance on file for this additional address- and a 'Use Permit' would be required to issue such a Clearance. (Zoning Code 20.91.015)

√ There is NO State License on file for this additional property to operate as part of Narconon.

'EXPANSION' TRIGGERS REQUIREMENT FOR IMMEDIATE USE PERMIT APPLICATION BY NARCONON

The 'expansion' by Narconon into an additional residential property at 1811 W. Balboa Blvd. is in violation of Zoning Code 20.91.055. This city zoning code requires Narconon to now secure a Use Permit since they have expanded services that would require an original use permit. "A ... change to plans that would affect a condition of approval, shall be treated as a new application." In addition, "A use normally permitted by right or by the approval of a use permit, but which is nonconforming by virtue of the required conditions of the district in which it is located, may be expanded, increased or intensified by way of a change in operational characteristics upon the approval of a use permit." This Zoning Code requires an application for a Use Permit be required of Narconon immediately.

STATE LICENSING FROM ADP

For Narconon to deliver services as a drug/alcohol treatment center they were state-licensed from the California Department of Alcohol and Drug Programs (ADP). This state license DOES NOT eliminate nor supercede local city zoning code. The state licensing agency, ADP, is required to honor local city zoning codes, business license requirements, and fire department clearances & occupancy requirements. Quote from ADP document: "Local officials are involved in zoning of property for commercial and residential use and issuance of use permits and business licenses." The city of Irvine is an excellent example of enforcement of identical City Zoning Codes, resulting in NO residentially-based Drug/Alcohol Treatment Centers in Irvine.

FORMAL REQUEST - IMMEDIATE ENFORCEMENT OF CITY ZONING CODE

On behalf of the residents/property owners in the neighborhood of this Narconon facility, I requested the immediate enforcement of the city Zoning Code. "All departments, officials and public employees of the City of Newport Beach, vested with the duty or authority to issue permits or licenses shall conform to the provisions of this code and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this code; and any such permit or license issued in conflict with the provisions of this code shall be null and void." [20.96.010]

FORMAL REQUEST - DECLARATION OF NUISANCE & ABATEMENT

Finally, the City Zoning Code provides for a 'Declaration of Nuisance; Abatement'.

"Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this code, and any use of any land, building or premises established, conducted, operated or maintained contrary to the provision of this code, shall be and the same is hereby declared to be unlawful and a

public nuisance; and the City Attorney shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal...” [City Zoning Code 20.96.030]

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Sincerely,

Dr. Linda Orozco
1805 W. Balboa Blvd. , Newport Beach, CA 92663
949-673-5416

cc. Property owners, neighbors, related agencies & organizations, & press
City Council members
City Police Chief
City Planning Commission members

Attached: Letter verifying Narconon lease of 2nd residential property at 1810 W. Balboa Blvd.