

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

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ORDINANCE NO. ORD-19-0010

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH IMPOSING INTERIM  
REGULATIONS ON THE ISSUANCE OF BUILDING  
PERMITS, CONDITIONAL USE PERMITS, OR OTHER  
ENTITLEMENTS FOR NEW DRIVE-THROUGH LANES  
THROUGHOUT THE CITY; DECLARING THE URGENCY  
THEREOF; AND DECLARING THAT THIS ORDINANCE  
SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, concerns have been raised over the number of applications for  
Conditional Use Permits and other entitlements for new drive-through lanes at food and  
other business establishments in all parts of the City; and

WHEREAS, residents, Councilmembers, and other stakeholders and  
individuals have expressed concern that the current Zoning Regulations may not fully  
address the impacts that drive-through lanes may have in the community, especially in  
the underserved communities, and the effects of drive-through lanes on the City's major  
streets; and

WHEREAS, maintaining the status quo with respect to drive-through lanes  
in the City by assuring that no new applications for Conditional Use Permits or other  
entitlements are accepted, and no new Conditional Use Permits or other entitlements are  
issued, while the City conducts a study on drive-through lanes is consistent with good  
planning; and

WHEREAS, the City's planning staff and the Planning Commission will  
begin a study of drive-through lane regulations and prepare an implementation plan for  
the roll-out of any new regulations; and

WHEREAS, the goal of any new drive-through regulations is to develop

1 comprehensive regulations which recognize and balance the various interests related to  
2 drive-through-lanes in a manner tailored to the City's unique needs and community  
3 vision, and which are supportive of more walkable and pedestrian friendly environments,  
4 and which reflect the land use and zoning policy choices of the City; and

5 WHEREAS, until the drive-through lane policy study is complete and any  
6 new regulations are adopted, there is a significant risk that some individuals or entities  
7 may make investments in new drive-through lanes that would soon thereafter be illegal,  
8 nonconforming, or subject to an amortization program; and

9 WHEREAS, the possibility that construction of drive-through lanes could be  
10 incompatible with any new drive-through lane regulations constitutes a current and  
11 immediate threat to the public health, safety, or welfare, and approval of Conditional Use  
12 Permits or other entitlements for such drive-through lanes would result in a threat to  
13 public health, safety, and welfare; and

14 WHEREAS, Chapter 21.50 of the Long Beach Municipal Code empowers  
15 the City to enact interim zoning regulations which takes effect immediately upon a  
16 showing of urgency;

17 WHEREAS, on April 9, 2019, the City Council adopted a minute order  
18 pursuant to an agenda request which initiated a moratorium relating to the issuance of  
19 building permits, conditional use permits, or other entitlements for new drive-through  
20 lanes throughout the City, and declaring the urgency thereof;

21 NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
22 follows:

23 Section 1. Purpose and Findings. At the direction of the City Council, the  
24 Development Services Department and the Planning Commission will undertake a study  
25 of potential amendments to the Zoning Regulations and Building Codes of the City of  
26 Long Beach regulating, limiting or prohibiting drive-through lanes at new establishments  
27 throughout the City. The City Council specifically finds that the existing regulations  
28 contained in the City's Zoning and Building regulations may be in conflict with the Zoning

1 and Building regulations that are or will be studied by the Development Services  
2 Department and the Planning Commission pursuant to the City Council's direction.

3 Section 2. Estimated Time for Completion of Study. It is estimated that  
4 the study or studies undertaken in connection with the adoption of this interim ordinance  
5 may take the Development Services Department and the Planning Commission  
6 approximately six (6) months to complete.

7 Section 3. Prohibition.

8 Notwithstanding any provision of the Long Beach Municipal Code to the  
9 contrary, for a period of six (6) months from the effective date of this Ordinance, which  
10 would be October 20, 2019, or until a permanent ordinance becomes effective, whichever  
11 occurs first:

12 A. No application for a Conditional Use Permit, building permit, or other  
13 entitlement for a drive-through lane at any facility, building, or structure in the City shall  
14 be accepted.

15 B. No Conditional Use Permit, building permit, or other entitlement for a  
16 drive-through lane at any facility, building, or structure in the City shall be issued.

17 C. No building or other permit shall be issued that would result in the  
18 conversion of any existing establishment to include a drive-through lane anywhere in the  
19 City.

20 Section 4. Exceptions.

21 A. The prohibitions specified in Section 3 of this Ordinance shall not  
22 apply to any drive-through construction for which a permit application is required as  
23 follows:

24 1. In order to comply with an order issued by the Department of  
25 Development Services to repair, remove, demolish or maintain any unsafe or a  
26 substandard condition with respect to any existing drive-through lane.

27 2. In order to replace or repair a drive-through lane damaged as  
28 a result of fire, earthquake, or other natural disaster, provided that the replacement or

1 repair is not prohibited by any other provision of the Long Beach Municipal Code.

2 B. The prohibitions specified in Section 3 of this Ordinance shall not  
3 apply to any Conditional Use Permit, building permit or other entitlement issued for a  
4 drive-through lane prior to the effective date of this Ordinance.

5 C. The prohibitions specified in Section 3 of this Ordinance shall not  
6 apply to the routine maintenance or repair of existing drive-through lanes provided that  
7 the drive-through lane is not enlarged in any manner. During the period of this interim  
8 ordinance no drive-through lane shall be removed and replaced for the purposes of  
9 modernization, except pursuant to an order issued by the Department of Development  
10 Services.

11 D. The prohibition specified in Section 3 of this Ordinance shall not  
12 apply to those certain properties as set forth in Exhibit "A" of this Ordinance for which  
13 Conditional Use Permits have been approved and building permits are pending or for  
14 those properties for which the City has received a complete project application and fees  
15 have been paid, all as is specified in Exhibit "A", a copy of which is attached hereto, and  
16 incorporated herein, by this reference.

17 Section 5. Severability. If any provision of this Ordinance is found to be  
18 unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity  
19 shall not affect the remaining provisions of this Ordinance which can be implemented  
20 without the invalid provision, and, to this end, the provisions of this Ordinance are  
21 declared to be severable.

22 Section 6. Applicability of the Zoning Code. The regulations of this  
23 Ordinance are in addition to those set forth in the planning and zoning provisions of  
24 Chapter 21 of the Long Beach Municipal Code and any other ordinances adopted by the  
25 City Council, and do not contain any rights not otherwise granted under the provisions  
26 and procedures contained in that Chapter or any other ordinances.

27 Section 7. Urgency Clause. The City Council finds and declares that this  
28 ordinance is required for the immediate preservation of the public peace, health and

1 safety for the following reasons. This ordinance is necessary to prevent irreversible  
2 development from occurring pending adoption of a permanent ordinance by preventing  
3 the issuance of Conditional Use Permits, or other permits for the construction of drive-  
4 through lanes at new establishments throughout the City and possibly undermine the  
5 recommendations for updating the zoning regulations regarding drive-through lanes.  
6 Therefore, this Ordinance shall become effective upon adoption pursuant to Long Beach  
7 City Charter Sections 211 and 212.

8           Section 8. The City Council finds and determines that the proposed  
9 interim ordinance is not in conflict with the various provisions of the California Coastal Act  
10 because, among other things, the proposed interim ordinance does not in any way affect  
11 access to or the enjoyment of coastal related activities.

12           Section 9. Declaration of Urgency. This ordinance is an emergency  
13 measure, and it is urgently required for the reason that, pending completion of the  
14 necessary planning study, and a determination relative to the potential need to amend  
15 the Zoning or Building regulations of the City, it is necessary to temporarily prohibit the  
16 issuance of Conditional Use Permits, and the development, operation or construction of  
17 new drive-through lanes at establishments throughout the City, in order to avoid the  
18 adverse impacts that might be inconsistent with the pending revisions to the Zoning or  
19 Building regulations of the City being considered during the interim period.

20           Section 10. This ordinance is an emergency ordinance duly adopted by  
21 the City Council on May 14, 2019, by a vote of at least five (5) of its members and shall  
22 take effect immediately. The City Clerk shall certify to a separate roll call and vote on the  
23 question of the emergency of this ordinance and to its passage by the vote of five  
24 members of the City Council of the City of Long Beach, and cause the same to be posted  
25 in three conspicuous places in the City of Long Beach.

26           Section 11. This ordinance shall also be adopted by the City Council as a  
27 regular ordinance, to the end that in the event of any defect or invalidity in connection  
28 with the adoption of this ordinance as an emergency ordinance, the same shall,

1 nevertheless, be and become effective on the thirty-first day after it is approved by the  
2 Mayor.

3 Section 12. The City Clerk shall certify to the passage of this ordinance by  
4 the City Council of the City of Long Beach and shall cause the same to be posted in three  
5 (3) conspicuous places in the City of Long Beach.

6  
7 I hereby certify that on a separate roll call and vote which was taken by the  
8 City Council of the City of Long Beach upon the question of emergency of this ordinance  
9 at its meeting of May 14, 2019, the ordinance was declared to be an  
10 emergency by the following vote:

11	Ayes:	Councilmembers:	<u>Gonzalez, Pearce, Price,</u>
12			<u>Mungo, Andrews, Uranga,</u>
13			<u>Austin, Richardson.</u>
14	Noes:	Councilmembers:	<u>Supernaw.</u>
15			<u></u>
16	Absent:	Councilmembers:	<u>None.</u>
17			<u></u>

18  
19 I further certify that on May 14, 2019, upon a roll call and  
20 vote on first reading of the ordinance, it was adopted by the City Council of the City of  
21 Long Beach by the following vote:

22	Ayes:	Councilmembers:	<u>Gonzalez, Pearce, Price,</u>
23			<u>Mungo, Andrews, Uranga,</u>
24			<u>Austin, Richardson.</u>
25	Noes:	Councilmembers:	<u>Supernaw.</u>
26			<u></u>
27	Absent:	Councilmembers:	<u>None.</u>
28			<u></u>

1 I further certify that the foregoing ordinance was thereafter adopted on final  
2 reading by the City Council of the City of Long Beach at its meeting of  
3 \_\_\_\_\_, 2019, by the following vote:

4 Ayes: Councilmembers: \_\_\_\_\_


5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 Noes: Councilmembers: \_\_\_\_\_

8 \_\_\_\_\_  
9 Absent: Councilmembers: \_\_\_\_\_

10 \_\_\_\_\_  
11 \_\_\_\_\_

12   
13 Clerk

14  
15 Approved: 5/17/19  
16 (Date)

17   
18 Mayor

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

**CUP APPLICATIONS  
EXEMPT FROM THE MORATORIUM**

**Approved CUP - Building Permits Pending**

Project Address	Applicant
4700 Cherry Avenue	Kevin Le 801 S. Myrtle Avenue Monrovia, CA 91016
3639 E. 7th St.	Johanna Mumper + Jan Van Dijs 425 E. 4th St, Unit E Long Beach, CA 90802
6600 Atlantic Ave.	Atlantic & Artesia, LLC; Frontier Real Estate Investments
6141-6191 Atlantic Avenue	Westland Real Estate Group 520 W. Willow Street Long Beach, CA 90806
5865 E. Spring Street	George Younan 17042 Devonshire St, Ste. 214 Northridge, CA 91325
2528 / 2590 N. Lakewood Boulevard	McKently / Malak Architects Ken McKently 35 Hugus Alley, Suite 200 Pasadena, California 91103

**Complete CUP Applications-Fees Paid**

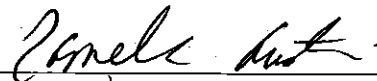
739 E. Anaheim St.	McKently Malak Architects 35 Hugus Alley, Ste. 200 Pasadena, CA
1320 Atlantic Ave.	McKently Malak Architects 35 Hugus Alley, Ste. 200 Pasadena, CA
7250 Carson Blvd	Michael Gant



AFFIDAVIT OF POSTING

STATE OF CALIFORNIA        ) ss  
COUNTY OF LOS ANGELES    )  
CITY OF LONG BEACH         )

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 15<sup>th</sup> day of May, 2019, I posted three true and correct copies of Emergency Ordinance No. ORD-19-0010 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

  
\_\_\_\_\_

Subscribed and sworn to before me  
This 15<sup>th</sup> day of May, 2019.

  
\_\_\_\_\_ CITY CLERK