

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SUBSECTION 8.68.060.B AND SECTION 5.88.060, AND BY ADDING SECTION 5.88.065 ALL RELATING TO SMOKING LOUNGE PERMITS

The City Council of the City of Long Beach ordains as follows:

Section 1. Subsection 8.68.060.B of the Long Beach Municipal Code is amended to read as follows:

B. This Section is not intended to prohibit smoking in any "smoking lounge" as defined in Subsection 8.68.020.R and in compliance with the provisions of Chapter 5.88. This exemption shall only apply to the places of business operating under smoking lounge applications that were on file and deemed complete by the Director of Financial Management on or before April 12, 2011.

Section 2. Section 5.88.060 of the Long Beach Municipal Code is amended to read as follows:

A. The Director of Financial Management shall make or cause to be made an investigation of the place of business and the manner in which the smoking lounge is to be conducted, and if it is found that all provisions of this Code and all applicable laws have been and will be complied with, the director of financial management shall issue the smoking lounge permit; otherwise, the application for a smoking lounge permit shall be denied.

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

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1           B.       Such smoking lounge permits shall be good for one (1) year  
2 and shall be automatically renewed every year, provided that the Director of  
3 Financial Management determines that the permit holder has complied with  
4 the provisions of this Chapter and applicable laws during the preceding  
5 permit term.

6           C.       Permittees must notify the Director of Financial Management  
7 in writing if structural modifications are planned to be made to a smoking  
8 lounge for which a permit has been issued under this Chapter. Prior to  
9 making any structural modifications to a smoking lounge, in whole or in part,  
10 the permittee shall submit plans and specifications to the Director of  
11 Financial Management for approval. The Director of Financial Management  
12 shall refer the plans and specifications to all concerned City departments for  
13 review and inspection, as appropriate. Such departments shall file a report  
14 providing recommendations regarding the approval or denial of the  
15 structural modifications with the Director of Financial Management within  
16 thirty (30) calendar days after the plans and specifications are submitted,  
17 except where circumstances beyond the control of the City justifiably delay  
18 such response.

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20           Section 3.    Section 5.88.065 is added to the Long Beach Municipal Code  
21 to read as follows:

22       5.88.065       Smoking lounge permit – Nontransferable.

23           A.       A smoking lounge permit issued pursuant to this Chapter shall  
24 become null and void upon the cessation of the business operations and/or  
25 the relocation of the business to a different property. All smoking lounge  
26 permit holders must notify the Director of Financial Management in writing  
27 of any discontinuance of business operations, change in ownership, change  
28 in business location, or change in the business name.

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B. Any change in ownership shall require a new permit and shall be applied for within one (1) year from the date of change in ownership.

The following shall be deemed a change in ownership:

1. For general partnership personnel, the addition or substitution of a new partner;
2. For a limited partnership, the addition or substitution of a new partner or the addition or substitution of a general partner not listed as a partner in the application for the permit previously approved;
3. For a corporation, more than fifty percent (50%) of the shares of stock is transferred to or acquired by persons other than those designated in the application for the permit previously approved.

C. Any permit issued pursuant to this Chapter shall not be transferred to any other location for any purpose. The following shall be deemed a change in location:

1. Any relocation or expansion that includes a separate piece of property or parcel of land from the initially permitted property.
2. Any expansion of the initially permitted property which represents a greater than fifty (50) percent increase in the square footage of space devoted to public access or occupancy.

Section 4. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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1 I hereby certify that the foregoing ordinance was adopted by the City  
2 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_\_\_, I  
3 following vote:

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5 Ayes: Councilmembers: \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_

9 Noes: Councilme \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_

12 Absent: Councilme \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 \_\_\_\_\_  
16 City Clerk  
17 \_\_\_\_\_

18 Approved: \_\_\_\_\_ (Date) \_\_\_\_\_  
19 \_\_\_\_\_ Mayor  
20 \_\_\_\_\_

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REDLINE

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3 8.68.060 Smoking prohibited – Enclosed public places.

4 B. This ~~section~~ Section is not intended to prohibit smoking in any "smoking lounge"  
5 as defined in Subsection 8.68.020.R and in compliance with the provisions of Chapter  
6 5.88. This exemption shall only apply to the places of business operating under smoking  
7 lounge applications that were on file and deemed complete by the Director of Financial  
8 Management on or before April 12, 2011

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10 5.88.060 Smoking lounge permit - Issuance.

11 A. 'The ~~d~~Director of ~~f~~Financial ~~m~~Management shall make or cause to be made an  
12 investigation of the place of business and the manner in which the smoking lounge is to  
13 be conducted, and if it is found that all provisions of this Code and all applicable laws  
14 have been and will be complied with, the ~~d~~Director of ~~f~~Financial management shall  
15 issue the smoking lounge permit; otherwise, the application for a smoking lounge permit  
16 shall be denied.

17 B. Such smoking lounge permits shall be good for one (1) year and shall be  
18 automatically renewed every year, provided that the ~~d~~Director of ~~f~~Financial  
19 ~~m~~Management determines that the permit holder has complied with the provisions of this  
20 chapter and applicable laws during the preceding permit term.

21 C. ~~Such smoking lounge permits shall be nontransferable and nonassignable. All~~  
22 ~~smoking lounge permit holders must notify the director of financial management in writing~~  
23 ~~if they discontinue their business operations, if there is a change of ownership, or if there~~  
24 ~~is a change in the business name.~~

25 DC. Permittees must notify the ~~d~~Director of ~~f~~Financial ~~m~~Management in writing if  
26 structural modifications are planned to be made to a smoking lounge for which a permit  
27 has been issued under this ~~e~~Chapter. Prior to making any structural modifications to a  
28 smoking lounge, in whole or in part, the permittee shall submit plans and specifications to

1 the ~~d~~Director of ~~f~~Financial ~~m~~Management for approval. The ~~d~~Director of ~~f~~Financial  
2 ~~m~~Management shall refer the plans and specifications to all concerned city departments  
3 for review and inspection, as appropriate. Such departments shall file a report providing  
4 recommendations regarding the approval or denial of the structural modifications with the  
5 ~~d~~Director of ~~f~~Financial ~~m~~Management within thirty (30) calendar days after the plans and  
6 specifications are submitted, except where circumstances beyond the control of the ~~e~~City  
7 justifiably delay such response.

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9 5.88.065 Smoking lounge permit – Nontransferable.

10 A. A smoking lounge permit issued pursuant to this Chapter shall become null  
11 and void upon the cessation of the business operations and/or the relocation of the  
12 business to a different property. All smoking lounge permit holders must notify the  
13 Director of Financial Management in writing of any discontinuance of business  
14 operations, change in ownership, change in business location, or change in the business  
15 name.

16 B. Any change in ownership shall require a new permit and shall be applied for  
17 within one (1) year from the date of change in ownership. The following shall be deemed  
18 a change in ownership:

19 1. For general partnership personnel, the addition or substitution of a  
20 new partner;

21 2. For a limited partnership, the addition or substitution of a new partner  
22 or the addition or substitution of a general partner not listed as a partner in the application  
23 for the permit previously approved;

24 3. For a corporation, more than fifty percent (50%) of the shares of  
25 stock is transferred to or acquired by persons other than those designated in the  
26 application for the permit previously approved.

27 C. Any permit issued pursuant to this Chapter shall not be transferred to any  
28 other location for any purpose. The following shall be deemed a change in location:

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2. Any expansion of the initially permitted property which represents a greater than fifty (50) percent increase in the square footage of space devoted to public mess or occupancy.