

City of Long Beach




Working Together to Serve

Memorandum
3rd Council District

ORD-26

Date: April 12, 2011

To: Honorable Mayor Foster and Members of the City Council

From: Suja Lowenthal, Vice Mayor, 2nd District 
Gary DeLong, Councilmember, 3rd District 
Dee Andrews, Councilmember, 6th District 

Subject: Smoking Lounge Limit

RECOMMENDATION:

Declare Ordinance amending the Long Beach Municipal Code relating to limitations on the number and location of smoking lounges permitted to operate in the City of Long Beach, read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION:

On February 17, 2009, the Long Beach City Council amended Chapter 8.68 of the Municipal Code to allow for smoking of tobacco products in locations known as "smoking lounges." Following the action, the Council decided to create a process for permitting such establishments within the spirit of public health codes and to limit the amount of smoking lounges operating within the City.

On April 14, 2009, the City Council declared a one-year moratorium prohibiting the development or operation of new smoking lounges in the City. The Council extended the moratorium on November 17, 2009, for one (1) additional year to April 14, 2011. The moratorium will expire on April 14th and no further extensions are possible.

In order to prevent the proliferation of smoking lounges it is recommended that the attached Ordinance (Exhibit A) amending the Municipal Code be adopted to effectively limit the number and location of smoking lounges to the existing eight (8) establishments (Exhibit B) if such establishments are able to demonstrate they can comply with the City's smoking lounge regulations as set forth in Municipal Code Chapter 5.88. The Ordinance being recommended shall eliminate the eligibility for future locations and shall also restrict owners from moving to a different location, but will allow the permitted location to transfer ownership. The permit will be voided if the smoking lounge stops doing business.

SUGGESTED ACTION:

Approve recommendation.

Attachments:

Exhibit A - Ordinance

Exhibit B - List of Existing Smoking Lounge Establishments

Cigar Shops with Indoor Cigar Lounges

1. **2nd Street Cigars**, 202 Nieto Ave, 90803
2. **Antos Cigar Lounge**, 5305 E 2nd St #101, 90803
3. **Big Daddy Cigars**, 5844 Naples Plz, 90803
4. **Bo's Cigars**, 4501 E Carson St #114, 90803-
5. **Cohiba Cigar Shop**, 110 E Broadway, 90802
6. **Joe R's Churchill's of Long Beach**, 107 W Broadway, 90802
7. **Taylor's Tobacco & Cigar House Inc**, 5937 E Spring St, 90808
8. **Smoke Temple Cigar Shop**, 272 Redondo Ave B, 90803

EXHIBIT B

REDLINE

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8.68.060 Smoking prohibited – Enclosed public places.

B. This ~~section~~ 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.

5.88.060 Smoking lounge permit - Issuance.

A. The ~~d~~Director of ~~f~~Financial ~~m~~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 ~~d~~Director of ~~f~~Financial ~~m~~Management shall issue the smoking lounge permit; otherwise, the application for a smoking lounge permit shall be denied.

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

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

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

1 the dDirector of fFinancial mManagement for approval. _The dDirector of fFinancial
2 mManagement 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 dDirector of fFinancial mManagement within thirty (30) calendar days after the plans and
6 specifications are submitted, except where circumstances beyond the control of the eCity
7 justifiably delay such response.

8
9 5.68.065 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:

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. 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.

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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 5.68.065 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.

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.

19
20 Section 3. Section 5.68.065 is added to the Long Beach Municipal Code
21 to read as follows:

22 5.68.065 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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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor



City of Long Beach Memorandum
Working Together to Serve

REQUEST TO ADD AGENDA ITEM

Date: 4/8/11
To: Larry Herrera, City Clerk
From: Gary DeLong, Councilmember, 3rd District
Subject: Request to Add Agenda Item to Council Agenda of 4/12/11

Pursuant to Municipal Code Section 2.03.070 [B], the City Councilmembers signing below request that the attached agenda item (due in the City Clerk Department by Friday, 12:00 Noon) be placed on the City Council agenda under New Business via the supplemental agenda.

The agenda title/recommendation for this item reads as follows:

Declare Ordinance amending the Long Beach Municipal Code relating to limitations on the number and location of smoking lounges permitted to operate in the City of Long Beach, read the first time and laid over to the next regular meeting of the City Council for final reading.

Council District	Authorizing Councilmember	Signed by
3 rd	Gary DeLong	Gary DeLong
2	SUSA LOWENTHAL	Susa Lowenthal
6	Dee Andrews	Dee Andrews

Attachment: Staff Report dated April 12, 2011

CC: Office of the Mayor