



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-1

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December 1, 2009

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance relating to the temporary limitation (moratorium) on new billboards, supergraphics, and the conversion of existing billboard displays into electronic or digital billboards read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof; and declaring this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On November 3, 2009, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium against the construction of new billboards, supergraphics, or the conversion of existing billboards into electronic or digital billboards pending a revision of the City's zoning regulations pertaining to these subjects.

The Ordinance which has been prepared for Council's consideration establishes a one (1) year moratorium period. During this time, the Development Services Department and the Planning Commission will undertake a study on the propriety of amending the City's Zoning Regulations, Building Regulations and pertinent Municipal Code provisions related to all aspects of billboards and supergraphics. The one (1) year moratorium will apply to any application received by the Development Services Department on or after November 3, 2009.


SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
A09-00895

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH IMPOSING INTERIM
REGULATIONS ON THE ISSUANCE OF BUILDING
PERMITS OR OTHER ENTITLEMENTS FOR BILLBOARDS,
SUPERGRAPHIC SIGNS AND THE CONVERSION OF
EXISTING BILLBOARD/SIGN DISPLAYS INTO
ELECTRONIC OR DIGITAL BILLBOARDS; DECLARING
THE URGENCY THEREOF; AND DECLARING THAT THIS
ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, residents of the City of Long Beach have raised concerns over
the number of off-premise billboard and digital display signs that currently exist in the
City; and

WHEREAS, residents, Councilmembers and other individuals have
expressed concern that the current Zoning Regulations may not fully address the impacts
that billboards, supergraphics or other off-premises digital signs or billboards may have in
the community, especially in the residential areas thereof; and

WHEREAS, maintaining the status quo with respect to billboards in the City
by assuring that no new billboards are built, or no existing billboards are converted while
the review of the citywide billboard regulations is ongoing is consistent with good
planning; and

WHEREAS, California Government Code sections 38774 and 65850(b)
authorize and empower the City to regulate signs and billboards, and Business and
Professions Code section 5230 authorizes the City to enact and enforce billboard
regulations which are more restrictive than state law; and

WHEREAS, effective billboard and sign regulations protect community

1 aesthetics, the overall visual appearance and appeal of the City, and serve to maintain
2 the quiet and noncommercial character of residential neighborhoods, and protect
3 community vistas and property values; and

4 WHEREAS, the City's planning staff has been actively studying and
5 contemplating a zoning proposal which would substantially overhaul the City's billboard
6 regulation system, which regulations have not been significantly amended since their
7 adoption in the 1970's; and

8 WHEREAS, the goal of the new billboard regulations is to develop
9 comprehensive regulations which recognize and balance the various competing interests
10 related to billboards and other visual communication devices in a manner customized to
11 the City's unique needs and community vision, and which reflect the land use and zoning
12 policy choices of the City Council; and

13 WHEREAS, until the billboard ordinance revision project is complete and
14 the new regulations are adopted, there is a significant risk that some individuals or
15 entities may make investments in new billboards, or the conversion of existing billboards
16 which would soon thereafter be illegal, nonconforming, or subject to an amortization
17 program; and

18 WHEREAS, the possibility of construction of new permanent billboards, or
19 the conversion of existing billboards into electronic or digital formats which could be
20 incompatible with the new billboard regulations, constitutes a current and immediate
21 threat to the public health, safety, or welfare, and approval of permits for such billboards
22 or conversions would result in a threat to public health, safety, and welfare; and

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

26 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
27 follows:

28 Section 1. Purpose and Findings. At the direction of the City Council, the

1 Development Services Department and the Planning Commission will undertake a study
2 of potential amendments to the Zoning Regulations and Building Codes of the City of
3 Long Beach regulating, limiting or prohibiting billboards, supergraphics, off-premises
4 electronic or digital billboards/signs or the conversion of existing billboard displays into
5 electronic or digital billboards/signs. The City Council specifically finds that the existing
6 regulations contained in the City's Zoning and Building regulations may be in conflict with
7 the Zoning and Building regulations that are or will be studied by the Development
8 Services Department and the Planning Commission pursuant to the City Council's
9 direction.

10 Section 2. Definitions.

11 The following words or phrases, whenever used in this ordinance, shall be
12 construed as defined in this Section. Words and phrases not defined here shall be
13 construed as defined in Sections 21.15.030, et seq, of the Long Beach Municipal Code.

14 A. "Billboard" means a sign that identifies or communicates a
15 commercial or noncommercial message related to an activity conducted, a service
16 rendered, or a commodity sold at a location other than where the sign is located.

17 B. "Electronic or digital billboard" means an off-premises sign whose
18 alphabetic, pictographic, or symbolic informational content can be changed or altered on
19 a fixed display surface composed of electronically illuminated or mechanically driven
20 changeable segments whose informational content can be changed or altered by means
21 of computer-driven electronic impulses.

22 D. "Supergraphic Sign" means a sign consisting of an image projected
23 onto a wall or other surface or printed on vinyl, mesh or other material with or without
24 written text, supported and attached to a wall by an adhesive and/or by using stranded
25 cable and eye bolts and/or other materials or methods.

26 Section 3. Estimated Time for Completion of Study. It is estimated that
27 the study or studies undertaken in connection with the adoption of this interim ordinance
28 may take the Development Services Department and the Planning Commission

1 approximately one (1) year to complete.

2 Section 4. Prohibition.

3 Notwithstanding any provision of the Long Beach Municipal Code to the
4 contrary, for a period of one (1) year from the effective date of this Ordinance, or until a
5 permanent ordinance becomes effective, whichever occurs first:

6 A. No building or other permit for a new billboard or billboard structure,
7 electronic or digital billboard, or new supergraphic sign shall be issued.

8 B. No person shall erect, place, alter or construct any new billboard or
9 billboard structure, electronic or digital billboard, or new supergraphic sign pursuant to a
10 building permit issued prior to the effective date of this Ordinance.

11 C. No building or other permit shall be issued that would result in the
12 conversion of an existing billboard into an electronic or digital billboard.

13 Section 5. Exceptions.

14 A. The prohibitions specified in Section 4 of this Ordinance shall not
15 apply to any construction for which a building permit is required as follows:

16 1. In order to comply with an order issued by the Department of
17 Development Services to repair, remove, or demolish any unsafe or a substandard
18 condition with respect to any existing billboard, supergraphic sign, or other off-premises
19 sign.

20 2. In order to replace a billboard, including a digital display or
21 permitted supergraphic sign damaged as a result of fire, earthquake, or other natural
22 disaster, provided that the replacement is not prohibited by any provision of the Long
23 Beach Municipal Code.

24 B. The prohibitions specified in Section 4 of this Ordinance shall not
25 apply to any building permit issued prior to the effective date of this Ordinance:

26 1. If the building permit holder has performed substantial work
27 on or before the date of adoption of this Ordinance by the City Council and has incurred
28 substantial liabilities in good faith reliance upon the building permit.

1 2. The work performed shall be considered substantial if
2 construction pursuant to a valid building permit has progressed to the point that one of
3 the inspections required by the Long Beach Municipal Code has been made and the work
4 for which the inspection was called has been approved by the Development Services
5 Department prior to the effective date of this Ordinance.

6 C. The prohibitions specified in Section 4 of this Ordinance shall not apply
7 to the routine maintenance or repair of existing billboards (including the repair or
8 replacement of billboard backing material) provided that the billboard is not enlarged in
9 any manner (including the construction or installation of additional billboard faces), nor
10 shall the prohibitions specified in Section 4 apply to the replacement of advertising or
11 other copy on existing billboards. During the period of this interim ordinance no billboard
12 shall be removed and replaced for the purposes of modernization as that process is
13 described in section 21.54.450 of the Long Beach Municipal Code, except pursuant to
14 an order issued by the Department of Development Services.

15 Section 6. Severability. If any provision of this Ordinance is found to be
16 unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity
17 shall not affect the remaining provisions of this Ordinance which can be implemented
18 without the invalid provision, and, to this end, the provisions of this Ordinance are
19 declared to be severable.

20 Section 7. Applicability of the Zoning Code. The regulations of this
21 Ordinance are in addition to those set forth in the planning and zoning provisions of
22 Chapter 21 of the Long Beach Municipal Code and any other ordinances adopted by the
23 City Council, and do not contain any rights not otherwise granted under the provisions
24 and procedures contained in that Chapter or any other ordinances.

25 Section 8. Urgency Clause. The City Council finds and declares that this
26 ordinance is required for the immediate preservation of the public peace, health and
27 safety for the following reasons. This ordinance is necessary to prevent irreversible
28 development from occurring pending adoption of a permanent ordinance by preventing

1 the construction and placement of off-site signage that would add to visual blight in the
2 City and possibly undermine the recommendations for updating the off-site sign/billboard
3 ordinance. Therefore, this Ordinance shall become effective upon adoption pursuant to
4 Long Beach City Charter Sections 211 and 212.

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

9 Section 10. Declaration of Urgency. This ordinance is an emergency
10 measure, and it is urgently required for the reason that, pending completion of the
11 necessary planning study, and a determination relative to the potential need to amend
12 the Zoning or Building regulations of the City, it is necessary to temporarily prohibit
13 development, operation or construction of new billboards, off-site/digital displays, off-site
14 electronic message center signs, and the conversion of static billboard/sign displays into
15 electronic message or digital display billboards in order to avoid the adverse impacts that
16 might be inconsistent with the pending revisions to the Zoning or Building regulations of
17 the City being considered during the interim period.

18 Section 11. This ordinance is an emergency ordinance duly adopted by
19 the City Council on _____, 2009, by a vote of at least five (5) of its
20 members and shall take effect immediately. The City Clerk shall certify to a separate roll
21 call and vote on the question of the emergency of this ordinance and to its passage by
22 the vote of five members of the City Council of the City of Long Beach, and cause the
23 same to be posted in three conspicuous places in the City of Long Beach.

24 Section 12. This ordinance shall also be adopted by the City Council as a
25 regular ordinance, to the end that in the event of any defect or invalidity in connection
26 with the adoption of this ordinance as an emergency ordinance, the same shall,
27 nevertheless, be and become effective on the thirty-first day after it is approved by the
28 Mayor.

1 Section 13. The City Clerk shall certify to the passage of this ordinance by
2 the City Council of the City of Long Beach and shall cause the same to be posted in three
3 (3) conspicuous places in the City of Long Beach.

4 I hereby certify that on a separate roll call and vote which was taken by the
5 City Council of the City of Long Beach upon the question of emergency of this ordinance
6 at its meeting of _____, 2009, the ordinance was declared to be an
7 emergency by the following vote:

8 Ayes: Councilmembers: _____
9 _____
10 _____

11 Noes: Councilmembers: _____
12 _____

13 Absent: Councilmembers: _____
14 _____

15
16 I further certify that on _____, 2009, upon a roll call and
17 vote on first reading of the ordinance, it was adopted by the City Council of the City of
18 Long Beach by the following vote:

19 Ayes: Councilmembers: _____
20 _____
21 _____

22 Noes: Councilmembers: _____
23 _____

24 Absent: Councilmembers: _____
25 _____

26
27 I further certify that the foregoing ordinance was thereafter adopted on final
28 reading by the City Council of the City of Long Beach at its meeting of

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_____, 2009, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor