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CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

September 17, 2013

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) of entertainment permits for Type 48 ABC licenses in the Downtown Dining and Entertainment District read, adopted as read, 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. (District 2)

DISCUSSION

On August 13, 2013, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium against the issuance of entertainment permits in the Downtown Dining and Entertainment District ("District") for businesses that operate under a Type 48 ABC license (Bar and Lounge-no kitchen). The moratorium was initiated pursuant to the provisions of Chapter 21.50 of the Municipal Code, "Interim Prohibition of Uses."


The Ordinance which has been prepared for Council's consideration establishes a one year moratorium period. During this time, the City Manager, Development Services Department and the Planning Commission will undertake a study on the propriety of amending the City's zoning and/or business license regulations related to the above described use. The one year moratorium will apply to any entertainment permit and/or business license application received by the City after August 13, 2013, for businesses operating in the District with a Type 48 ABC Permit.

SUGGESTED ACTION:

Approve recommendation.

CHARLES PARKIN, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH IMPOSING A MORATORIUM
RELATING TO THE ESTABLISHMENT OF CERTAIN BARS
OR NIGHTCLUBS WITH TYPE 48 ABC LICENSES AND
RELATED PERMITS IN THE DOWNTOWN DINING AND
ENTERTAINMENT DISTRICT; DECLARING THE URGENCY
THEREOF AND DECLARING THAT THIS ORDINANCE
SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, the Downtown Dining and Entertainment District Pilot Program
("Program") was established in 2005/06 to develop consistent hours and operating
conditions for businesses requiring an entertainment permit;

WHEREAS, the Program's guiding principles were to establish competitive
parity between Pine Avenue, the Pike, and the Shoreline Village entertainment and visitor
serving areas; to support residential development and quality of life; to strike a balance
between retail and restaurant uses; and to address noise impacts and automobile
gridlock in the target areas;

WHEREAS, the pilot Program set conditions to promote a safe environment
benefiting visitors, retail and entertainment venues, while ensuring quality of life for
residents who might be impacted by the enhanced hours and operating conditions of
those restaurants, bars, nightclubs and entertainment venues located within the pilot
Program area;

WHEREAS, in December 2008, the Downtown Dining and Entertainment
District ("District") was established on a permanent basis with a set of seventeen (now
nineteen) "Conditions of Operation" and three "Tiered Conditions" for progressively more
stringent regulation of entertainment and related activities including bar and restaurant

1 uses with Type 48 licenses issued by the State Department of Alcohol Beverage Control
2 (“ABC”);

3 WHEREAS, the District consists of the area bounded by Ocean Boulevard,
4 Third Street, Pacific Avenue, Long Beach Boulevard, and the areas known as the Pike at
5 Rainbow Harbor and Shoreline Village. Two maps depicting District boundaries are
6 attached hereto as Exhibit “A” and are incorporated herein by this reference as though
7 set forth in full herein. The hotels and retail stores providing entertainment within the
8 District boundaries are excluded from the Downtown Dining & Entertainment District
9 requirements.

10 WHEREAS, the purpose of the interim ordinance is to pause the permit
11 system for those new establishments who carry or wish to operate with a Type 48 license
12 issued by the State Department of Alcoholic Beverage Control, which licenses are
13 described by the ABC as “On Sale General-Public Premises - (bar, night club)”. Such
14 Type 48 licenses authorize the sale of beer, wine and distilled spirits for consumption on
15 the premises where sold, and likewise authorize the sale of beer and wine for
16 consumption off the premises where sold. Such Type 48 licenses do not require food
17 service as part of the overall operation.

18 WHEREAS, a moratorium temporarily prohibiting the establishment of new
19 Type 48 operations is needed because certain unintended consequences of the District
20 have arisen that need to be reviewed and evaluated in order to determine how the District
21 should evolve over the next 20 years, while at the same time balancing the interests of
22 residents, retail and entertainment uses. Among the consequences flowing from the
23 District are a proliferation of “Type 48” bars, nightclubs and restaurants offering late night
24 entertainment, which operations have served to eliminate traditional retail uses, caused
25 excessive noise and similar disturbances in adjacent residential areas, and which have
26 caused a strain on law enforcement resources due to the growing entertainment-centric
27 segment of uses within the District.

28 //

1 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
2 follows:

3 Section 1. Purpose and Findings. At the direction of the City Council at
4 its duly noticed meeting of August 13, 2013, the City Manager, Financial Management
5 Department, and/or Development Services Department and the Planning Commission
6 will conduct an evaluation or are currently studying potential amendments to the zoning
7 regulations or business license regulations of the City relating to the issuance of
8 Entertainment Permits in the Downtown Dining and Entertainment District (“District”).

9 The City Council specifically finds that the existing regulations contained in
10 the zoning and business regulations of the City may be in conflict with the zoning and/or
11 business regulations that are, or will be, studied by the City Manager, Financial Services
12 Department, Development Services Department and the Planning Commission pursuant
13 to the City Council’s direction. The City Council further finds that this interim ordinance
14 does not and shall not conflict with the applicable provisions of the California Coastal Act.

15 Section 2. Estimated Time for Completion of Study. It is estimated that
16 the study or studies undertaken in connection with the adoption of this interim ordinance
17 shall take the various involved Departments and the Planning Commission approximately
18 one (1) year to complete. For the purposes of this ordinance, this interim moratorium
19 study period shall expire no later than August 12, 2014, or at such time as the City does
20 adopt appropriate zoning or business license regulations related to all or some of the
21 above defined businesses, whichever is sooner.

22 Section 3. Prohibition. During the one (1) year interim moratorium
23 period, no application shall be approved for an Entertainment Permit, discretionary or
24 ministerial permit including a business license, conditional use permit, administrative use
25 permit or other land use entitlement for any business within the Downtown Dining and
26 Entertainment District which carries or intends to operate with a Type 48 license issued
27 by the State Department of Alcoholic Beverage Control. Said prohibition shall apply in
28 the Downtown Dining and Entertainment District for the duration of the one (1) year

1 interim moratorium period and shall not apply to the remodeling or repair of existing
2 facilities provided that the existing "footprint" of any site, structure or building is not
3 expanded.

4 Section 4. Exceptions. The prohibition contained in this ordinance does
5 not apply to businesses operating or intending to operate with a Type 48 License, issued
6 by the ABC, where an application for development, construction, or use, by such
7 business was on file and deemed complete by the Development Services or Financial
8 Management departments on or before August 13, 2013.

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

13 Section 6. Declaration of Urgency. This ordinance is an emergency
14 measure, and it is urgently required for the reason that, pending completion of the
15 necessary planning study, and a determination relative to the potential need to amend
16 the zoning or business license regulations of the City, it is necessary to limit new
17 construction, development or use of the above defined "Type 48" businesses and
18 facilities in order to avoid incompatible land uses from developing that might be
19 inconsistent with the pending revisions to the zoning or business license regulations of
20 the City being considered during the interim period.

21 Section 7. This ordinance is an emergency ordinance duly adopted by
22 the City Council by a vote of at least five (5) of its members and shall take effect
23 immediately. The City Clerk shall certify to a separate roll call and vote on the question
24 of the emergency of this ordinance and to its passage by the vote of five (5) members of
25 the City Council of the City of Long Beach, and cause the same to be posted in three (3)
26 conspicuous places in the City of Long Beach.

27 Section 8. This ordinance shall also be adopted by the City Council as a
28 regular ordinance, to the end that in the event of any defect or invalidity in connection

1 with the adoption of this ordinance as an emergency ordinance, the same shall,
2 nevertheless, be and become effective on the thirty-first day after it is approved by the
3 Mayor.

4 Section 9. The City Clerk shall certify to the passage of this ordinance by
5 the City Council of the City of Long Beach and shall cause the same to be posted in three
6 conspicuous places in the City of Long Beach.

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 _____, 2013, the ordinance was declared to be an
10 emergency by the following vote:

11 Ayes: Councilmembers: _____

12 _____

13 _____

14 Noes: Councilmembers: _____

15 _____

16 Absent: Councilmembers: _____

17 _____

18 _____

19 I further certify that thereafter, at the same meeting, upon a roll call and
20 vote on adoption of the ordinance, it was adopted by the City Council of the City of Long
21 Beach by the following vote:

22 Ayes: Councilmembers: _____

23 _____

24 _____

25 Noes: Councilmembers: _____

26 _____

27 Absent: Councilmembers: _____

28 _____

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2013, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor

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

Downtown Dining and Entertainment District



Exhibit A, page 1 of 2

Downtown Dining and Entertainment District

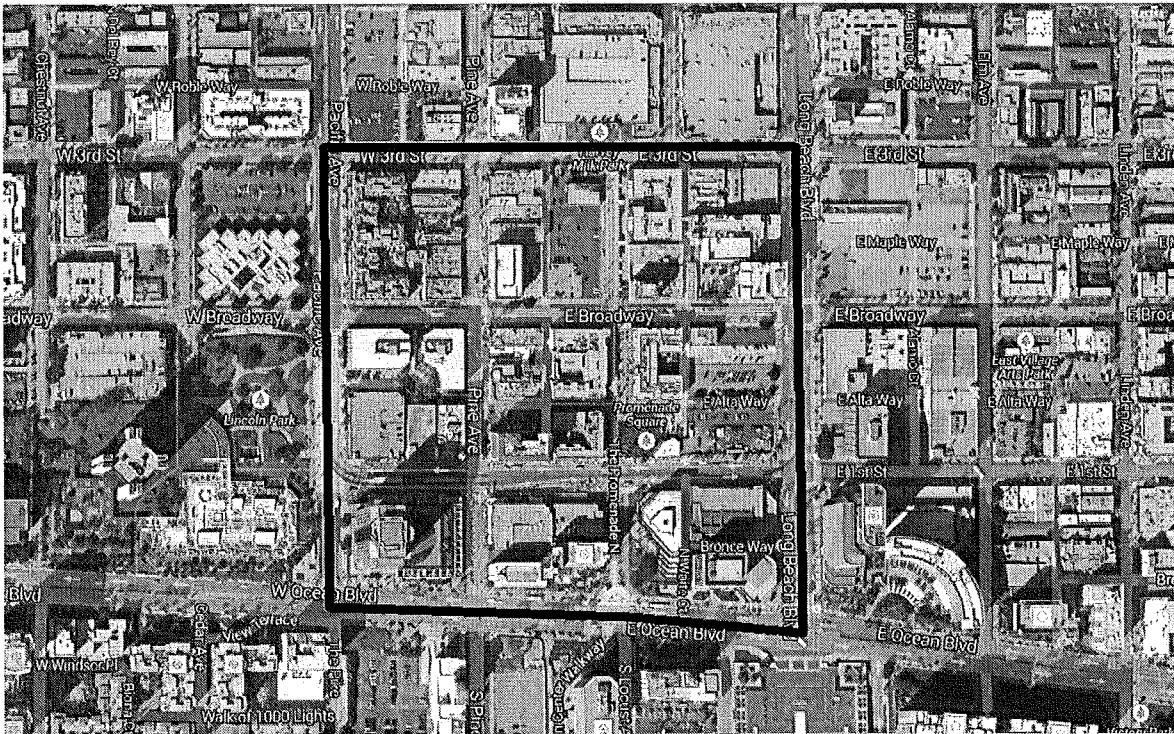


Exhibit A, page 2 of 2