



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-1

ROBERT E. SHANNON
City Attorney

September 14, 2010

PRINCIPAL DEPUTIES

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DEPUTIES

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City of Long Beach
California

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RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance relating to the temporary limitation (moratorium) on the approval of permits for the installation of wireless telecommunications facilities in the Residential and Institutional zones of the City 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 that this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On May 18, 2010 and July 6, 2010, the City Council adopted ordinances which initiated a moratorium on the approval of applications to construct, modify or place wireless communication facilities in the City of Long Beach; and requested the City Attorney, in cooperation with the Development Services Department, to prepare an interim zoning ordinance for notice and placement on the City Council agenda. The moratorium was initiated pursuant to the provisions of Chapter 21.50 of the Municipal Code, "Interim Prohibition of Uses."

The moratoriums are set to expire on September 15, 2010, and November 4, 2010, respectively. Additional time is required to work with local residents and wireless representatives in the telecommunications industry and to study and complete comprehensive regulations for the permitting, placement, design and maintenance of wireless facilities in all zones within the City. The attached ordinance will extend both moratoriums instituted under the ordinances to December 14, 2010.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

HEATHER A. MAHOOD
Chief Assistant City Attorney

HAM:kjm
A10-00995

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ORDINANCE NO.

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING ORDINANCE NOS. ORD-10-0015 AND ORD-10-0020 RELATING TO THE TEMPORARY LIMITATION ON THE ISSUANCE OF DISCRETIONARY PERMITS FOR THE INSTALLATION, MODIFICATION OR RELOCATION OF WIRELESS FACILITIES WITHIN RESIDENTIAL AND INSTITUTIONAL USE ZONES, RESPECTIVELY; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, on May 18, 2010, by Ordinance No. ORD-10-0015, the City Council of the City of Long Beach imposed, on an urgency basis, a temporary moratorium for one hundred twenty (120) days on the issuance of discretionary permits for the installation, modification or relocation of Wireless Facilities within those areas of the City zoned exclusively for Residential use; and

WHEREAS, on July 6, 2010, by Ordinance No. ORD-10-0020, the City Council of the City of Long Beach imposed, on an urgency basis, a temporary moratorium for one hundred twenty (120) days on the issuance of discretionary permits for the installation, modification or relocation of Wireless Facilities within those areas of the City zoned exclusively for Institutional use; and

WHEREAS, additional time is required to study and complete the comprehensive regulations for the permitting, placement, design and maintenance of wireless facilities in all zones within the City, and to work with local residents and wireless representatives in the telecommunications industry to review and make revisions to the draft ordinance; and

1 WHEREAS, a duly noticed public hearing was held on September 14, 2010,
2 regarding the extension of the moratoriums;

3 NOW, THEREFORE, The City Council of the City of Long Beach ordains as
4 follows:

5 Section 1. Subsection F of Section 1 of Ordinance No. ORD-10-0015,
6 adopted May 18, 2010, is amended to read as follows:

7 F. To accomplish this, the City Council intends to
8 impose, on an urgency basis, a temporary moratorium on the issuance of
9 discretionary permits for the installation, modification or relocation of
10 Wireless Facilities within those areas of the City zoned exclusively for
11 residential use so that City staff, the City Council, and the citizens of the
12 City will have sufficient time to consider a comprehensive ordinance
13 lawfully regulating the installation, modification and relocation of Wireless
14 Facilities in the City. The preparation of such an ordinance, together with
15 the necessary public outreach, legal research, and City processes for
16 consideration of such enactments cannot be completed until December
17 14, 2010.

18
19 Section 2. Section 10 of Ordinance No. ORD-10-0015, adopted May 18,
20 2010, is amended to read as follows:

21 Section 10. Effective Date. This ordinance shall take effect
22 immediately upon its passage. It shall be of no further force or effect after
23 December 14, 2010, unless extended following a public hearing, as
24 provided for by law.

25
26 Section 3. Subsection F of Section 1 of Ordinance No. ORD-10-0020,
27 adopted July 6, 2010, is amended to read as follows:

28 F. To accomplish this, the City Council intends to

1 impose, on an urgency basis, a temporary moratorium on the issuance of
2 discretionary permits for the installation, modification or relocation of
3 Wireless Facilities within those areas of the City zoned exclusively for
4 Institutional use so that City staff, the City Council, and the citizens of the
5 City will have sufficient time to consider a comprehensive ordinance
6 lawfully regulating the installation, modification and relocation of Wireless
7 Facilities in the City's Institutional Zones. The preparation of such an
8 ordinance, together with the necessary public outreach, legal research,
9 and City processes for consideration of such enactments cannot be
10 completed until December 14, 2010.

11
12 Section 4. Section 10 of Ordinance No. ORD-10-0020, adopted July 6,
13 2010, is amended to read as follows:

14 Section 10. Effective Date. This ordinance shall take effect
15 immediately upon its passage. It shall be of no further force or effect after
16 December 14, 2010, unless extended following a public hearing, as
17 provided for by law.

18
19 Section 5. Declaration of Urgency. This ordinance is an emergency
20 measure, and it is urgently required for the reason that, pending completion of the
21 necessary planning study, and a determination relative to the potential need to amend
22 the Zoning or Building regulations of the City, it is necessary to temporarily prohibit the
23 issuance of discretionary permits for the installation, modification or relocation of Wireless
24 Facilities in Residential and Institutional zones of the City that might be inconsistent with
25 the pending revisions to the Zoning or Building regulations of the City being considered
26 during the interim period.

27 Section 6. This ordinance is an emergency ordinance duly adopted by
28 the City Council on _____, 2010, by a vote of at least five (5) of its

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1 members and shall take effect immediately. The City Clerk shall certify to a separate roll
2 call and vote on the question of the emergency of this ordinance and to its passage by
3 the vote of five members of the City Council of the City of Long Beach, and cause the
4 same to be posted in three conspicuous places in the City of Long Beach.

5 Section 7. This ordinance shall also be adopted by the City Council as a
6 regular ordinance, to the end that in the event of any defect or invalidity in connection
7 with the adoption of this ordinance as an emergency ordinance, the same shall,
8 nevertheless, be and become effective on the thirty-first day after it is approved by the
9 Mayor.

10 Section 8. The City Clerk shall certify to the passage of this ordinance by
11 the City Council of the City of Long Beach and shall cause the same to be posted in three
12 (3) conspicuous places in the City of Long Beach.

13 I hereby certify that on a separate roll call and vote which was taken by the
14 City Council of the City of Long Beach upon the question of emergency of this ordinance
15 at its meeting of _____, 2010, the ordinance was declared to be an
16 emergency by the following vote:

17 Ayes: Councilmembers: _____
18 _____
19 _____

20 Noes: Councilmembers: _____
21 _____

22 Absent: Councilmembers: _____
23 _____

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

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

I further hereby certify that the foregoing ordinance was adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2010, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____

Mayor