



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-1

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City Attorney

December 14, 2010

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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 extension of the temporary limitation (moratorium) on the issuance of permits for the installation, modification or relocation 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."

On September 14, 2010, the moratoriums were extended to December 14, 2010. It has been determined that additional time is required to work with local residents and wireless representatives and to study and complete comprehensive regulations for the permitting, placement, design and maintenance of wireless facilities in the City of Long Beach. The attached ordinance will extend both moratoriums instituted under the ordinances to June 12, 2011.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM: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 EXTENDING 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, on September 14, 2010 by Ordinance No. ORD-10-0027,
Ordinances ORD-10-0015 and ORD-10-0020 were amended to extend the temporary
limitation on the issuance of discretionary permits for the installation, modification or
relocation of wireless facilities within residential and institutional use zones to December
14, 2010; and

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

6 WHEREAS, a duly noticed public hearing was held on December 14, 2010,
7 regarding the extension of the moratoriums;

8 NOW, THEREFORE, The City Council of the City of Long Beach ordains as
9 follows:

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

12 F. To accomplish this, the City Council intends to
13 impose, on an urgency basis, a temporary moratorium on the issuance of
14 discretionary permits for the installation, modification or relocation of
15 Wireless Facilities within those areas of the City zoned exclusively for
16 residential use so that City staff, the City Council, and the citizens of the
17 City will have sufficient time to consider a comprehensive ordinance
18 lawfully regulating the installation, modification and relocation of Wireless
19 Facilities in the City. The preparation of such an ordinance, together with
20 the necessary public outreach, legal research, and City processes for
21 consideration of such enactments cannot be completed until June 12,
22 2011.

23
24 Section 2. Section 10 of Ordinance No. ORD-10-0015, adopted May 18,
25 2010, is amended to read as follows:

26 Section 10. Effective Date. This ordinance shall take effect
27 immediately upon its passage. It shall be of no further force or effect after
28 June 12, 2011, unless extended following a public hearing, as provided for

1 by law.

2
3 Section 3. Subsection F of Section 1 of Ordinance No. ORD-10-0020,
4 adopted July 6, 2010, is amended to read as follows:

5 F. To accomplish this, the City Council intends to
6 impose, on an urgency basis, a temporary moratorium on the issuance of
7 discretionary permits for the installation, modification or relocation of
8 Wireless Facilities within those areas of the City zoned exclusively for
9 Institutional use so that City staff, the City Council, and the citizens of the
10 City will have sufficient time to consider a comprehensive ordinance
11 lawfully regulating the installation, modification and relocation of Wireless
12 Facilities in the City's Institutional Zones. The preparation of such an
13 ordinance, together with the necessary public outreach, legal research,
14 and City processes for consideration of such enactments cannot be
15 completed until June 12, 2011.

16
17 Section 4. Section 10 of Ordinance No. ORD-10-0020, adopted July 6,
18 2010, is amended to read as follows:

19 Section 10. Effective Date. This ordinance shall take effect
20 immediately upon its passage. It shall be of no further force or effect after
21 June 12, 2011, unless extended following a public hearing, as provided for
22 by law.

23
24 Section 5. Declaration of Urgency. This ordinance is an emergency
25 measure, and it is urgently required for the reason that, pending completion of the
26 necessary planning study, and a determination relative to the potential need to amend
27 the Zoning or Building regulations of the City, it is necessary to temporarily prohibit the
28 issuance of discretionary permits for the installation, modification or relocation of Wireless

1 Facilities in Residential and Institutional zones of the City that might be inconsistent with
2 the pending revisions to the Zoning or Building regulations of the City being considered
3 during the interim period.

4 Section 6. This ordinance is an emergency ordinance duly adopted by
5 the City Council on December 14, 2010, by a vote of at least five (5) of its members and
6 shall take effect immediately. The City Clerk shall certify to a separate roll call and vote
7 on the question of the emergency of this ordinance and to its passage by the vote of five
8 members of the City Council of the City of Long Beach, and cause the same to be posted
9 in three conspicuous places in the City of Long Beach.

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

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

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

22 Ayes: Councilmembers: _____

23 _____

24 _____

25 Noes: Councilmembers: _____

26 _____

27 Absent: Councilmembers: _____

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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 _____, 2011, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____

Mayor