



**OFFICE OF THE CITY ATTORNEY**

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**ORD-25**

**DAWN MCINTOSH**  
City Attorney

**GARY J. ANDERSON**  
Assistant City Attorney

April 11, 2023

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Declare ordinance amending the Long Beach Municipal Code by repealing Section 2.06.060 related to compensation of members of advisory bodies, and amending Section 2.18.050 related to general regulations of advisory bodies, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

**DISCUSSION**

This office has prepared and submits a revised draft of the above described Ordinance for your consideration. The timeframe proposed in the initial draft of the Ordinance submitted on March 14, 2023 required trainings determined by the City Clerk to be necessary for effective service on an advisory body be complete by members of advisory bodies within thirty (30) days of assuming office.

City staff expressed concerns that due to the extent of the trainings that members of advisory bodies will be expected to complete, that requiring members to complete said trainings within 30 days would be impracticable. Therefore, this Ordinance proposes that all trainings determined by the City Clerk to be necessary for effective service on an advisory body to be completed by members of advisory bodies within one hundred twenty (120) days of assuming office.

**SUGGESTED ACTION:**

Approve recommendation.

Very truly yours,

DAWN MCINTOSH, City Attorney

By

Taylor M. Anderson  
Deputy City Attorney

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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 SECTION 2.18.050; AND, BY REPEALING SECTION 2.06.060, ALL RELATING TO COMPENSATION AND TRAINING REQUIREMENTS FOR MEMBERS OF BOARDS AND COMMISSIONS

WHEREAS, on January 7, 2020 and June 6, 2020, the City Council adopted resolutions to amend the City's Salary Resolutions to allow members of advisory bodies to receive compensation for their service; and

WHEREAS, Senate Bill 225 (SB 225) indicates a person, regardless of citizenship or immigration status, is eligible to hold an appointed civil office if the person is 18 years of age and a resident of the State; and

WHEREAS, the legislative history of SB 225 notes that under federal law, it is unlawful for a person or entity to hire an undocumented resident for employment (8 U.S.C. § 1324(a).); and

WHEREAS, while SB 225 authorizes undocumented residents to serve as appointed members of public boards and commissions, it could not authorize employment as an element of that appointment because state law cannot supersede federal law; and

WHEREAS, the City's current policy which mandates compensation to members of advisory bodies may cause said members to fall within the legal definition of an employee; and

WHEREAS, under federal law, it is unlawful for a person or entity to hire an undocumented resident for employment (8 U.S.C. § 1324(a).); and

WHEREAS, to ensure the City's policy allows for undocumented residents to serve on advisory bodies, as required by State law, and to avoid possible violations of

1 federal law, the City's Salary resolution and LBMC Sections 2.06.060 and 2.18.050 are  
2 being amended to allow for certain members of advisory bodies to serve as volunteers  
3 without compensation or as a volunteer eligible to receive an expense reimbursement  
4 payment; and

5 WHEREAS, since City officers may be considered employees under state  
6 and federal tax law, and members of the Civil Service, Harbor, Public Utilities, and Planning  
7 Commissions are deemed City officers by City Charter Section 500, members of these  
8 commissions will not be eligible to serve as volunteers; a Charter Amendment is required  
9 to remove their status as "City officers"; and

10 WHEREAS, LBMC Section 2.18.050.F has been amended to be consistent  
11 with the language in Section 510 of the City Charter to allow for the removal of advisory  
12 members at any time with the concurrence of two-thirds (2/3) of the members of the City  
13 Council; and

14 WHEREAS, LBMC Section 2.18.050.G has been amended to require  
15 members of advisory bodies to complete the ethics trainings and pledge required of LBMC  
16 Ch. 2.07 ("Code of Conduct and Ethics) and all trainings determined by the City Clerk to  
17 be necessary for effective service on an advisory body within one-hundred twenty (120)  
18 days of assuming office, including, but not limited to, trainings on the City's strategic vision,  
19 ethics standards, and diversity, equity, inclusion, and racial justice principles;

20 NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
21 follows:

22 Section 1. Section 2.18.050 of the Long Beach Municipal Code is hereby  
23 amended and restated to read as follows:

24 2.18.050 General regulations.

25 The following regulations shall apply to all advisory bodies which are  
26 subject to this Chapter:

27 A. The members of each body shall be appointed by the Mayor  
28 and confirmed by a majority vote of all members of the City Council;

1           B.     The members of each body must reside in the City at the time  
2 of appointment, and must maintain residence within the City at all times  
3 during their service on the advisory body;

4           C.     The term of office shall be two (2) years for members of each  
5 body. Members may be reappointed after their initial term, but in no event  
6 shall any person who has served four (4) consecutive, two (2) year terms on  
7 the same body be eligible for reappointment to that body. Serving any portion  
8 of an unexpired term shall not be counted as service of one (1) term.  
9 Members not eligible for reappointment may continue to serve until their  
10 successors are appointed and qualified. The terms of office for members of  
11 all advisory bodies shall terminate on June 30th of every even-numbered  
12 year. The terms of office for members of all advisory bodies shall start on July  
13 1<sup>st</sup> of every even-numbered year;

14           D.     Members of advisory bodies may receive compensation for the  
15 performance of their official duties if such compensation is expressly provided  
16 by the City Council in the Salary Resolution of the City. With the exception of  
17 members of those commissions identified in City Charter Section 500,  
18 members of those advisory bodies identified in the Salary Resolution of the  
19 City shall have the option to serve as a volunteer without compensation or as  
20 a volunteer eligible for an expense reimbursement payment. Expense  
21 reimbursement payments are intended to reimburse members of advisory  
22 bodies serving as volunteers for related expenses incurred in the  
23 performance of their official duties. Members of any advisory body expressly  
24 compensated by the City Council shall be ineligible to receive compensation  
25 unless and until they have adhered to the requirements set forth in  
26 Subsection 2.18.050.G of this Code;

27           E.     Appointments to fill vacancies on advisory bodies shall be  
28 handled in the same manner as original appointments. When a vacancy

1 occurs during a term, the appointment to fill such vacancy shall be for the  
2 unexpired portion of the term;

3 F. The Mayor may remove any member of a City Council  
4 established advisory body at any time, with the concurrence of two-thirds  
5 (2/3) of the members of the City Council; and

6 G. Members of advisory bodies shall:

7 1. File a Form 700 with the City Clerk within thirty (30) days  
8 of assuming office, every year thereafter by April 1st, and within thirty (30)  
9 days of leaving office;

10 2. Ensure ethics trainings required pursuant to California  
11 Government Code Section 53234 et seq. and Chapter 2.07 of this Code are  
12 complete and current within the time periods specified therein;

13 3. Pledge in writing to uphold the principles in City's Code  
14 of Conduct and Ethics; and

15 4. Complete all trainings determined by the City Clerk to  
16 be necessary for effective service on an advisory body within one hundred  
17 twenty (120) days of assuming office, including, but not limited to, trainings  
18 on the City's strategic vision, ethics standards, and diversity, equity,  
19 inclusion, and racial justice principles.

20 Section 2. Section 2.06.060 of the Long Beach Municipal Code is hereby  
21 repealed.

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Section 3. The City Clerk shall certify to the passage of this ordinance by 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.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2023, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City Clerk

Approved: \_\_\_\_\_  
(Date)

Mayor