



OFFICE OF THE CITY ATTORNEY
Long Beach, California

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ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

PRINCIPAL DEPUTIES

Dominic Holzhaus
Anne C. Lattime
Monte H. Machit
J. Charles Parkin

DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
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Tiffani L. Shin
Linda Trang
Theodore B. Zinger

December 15, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance extending a temporary limitation (moratorium) on smoking lounges for one additional (1) year read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency therefore; and declaring this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On April 14, 2009, the City Council adopted a one-year moratorium prohibiting the development or operation of new smoking lounges in the City. The moratorium is set to expire on April 14, 2010. On November 17, 2009, the City Council adopted a minute order pursuant to an agenda request to extend for one (1) year the moratorium to April 14, 2011.

Pursuant to your request, this ordinance has been prepared and is submitted for your consideration. During this extended moratorium period, 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 smoking lounges as defined in Chapter 8.68. The moratorium will apply to any application received by the Development Services Department after March 17, 2009.

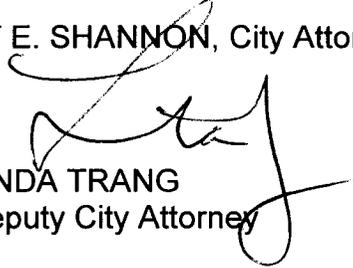
SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By



LINDA TRANG
Deputy City Attorney

Attachments: Exhibit A – Ordinance No. ORD-09-0009
Exhibit B – Ordinance extending temporary moratorium

1 Section 4. Estimated Time for Completion of Study. It is estimated that
2 the study or studies undertaken in connection with the adoption of this interim ordinance
3 shall take the Development Services Department and the Planning Commission
4 approximately one (1) year to complete.

5 Section 5. Prohibition - "Smoking Lounges." During the one (1) year
6 interim period, no application shall be approved for a permit or business license for the
7 development or operation of new smoking lounges citywide.

8 Section 6. Said prohibition shall apply to and shall be effective citywide.

9 Section 7. Exceptions. The prohibition contained in this ordinance does
10 not apply where a permit or business license application for development or operation of
11 a smoking lounge was on file and deemed complete by the Development Services
12 Department on or before March 17, 2009.

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

17 Section 9. Declaration of Urgency. This ordinance is an emergency
18 measure, and it is urgently required for the reason that, pending completion of the
19 necessary planning study, and a determination relative to the potential need to amend
20 the Zoning or Building regulations of the City, it is necessary to temporarily prohibit
21 development or operation of new smoking lounges that might be inconsistent with the
22 pending revisions to the Zoning or Building regulations of the City being considered
23 during the interim period.

24 Section 10. This ordinance is an emergency ordinance duly adopted by
25 the City Council on April 14, 2009, by a vote of at least five (5) of its
26 members and shall take effect immediately. The City Clerk shall certify to a separate roll
27 call and vote on the question of the emergency of this ordinance and to its passage by
28 the vote of five members of the City Council of the City of Long Beach, and cause the

1 same to be posted in three conspicuous places in the City of Long Beach.

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

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

10 I hereby certify that on a separate roll call and vote which was taken by the
11 City Council of the City of Long Beach upon the question of emergency of this ordinance
12 at its meeting of April 14, 2009, the ordinance was declared to be an
13 emergency by the following vote:

14 Ayes: Councilmembers: S. Lowenthal, O'Donnell, Schipske,
15 Andrews, Reyes Uranga, Gabelich,
16 Lerch.

17 Noes: Councilmembers: None.

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19 Absent: Councilmembers: DeLong.

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

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I further certify that on April 14, 2009, upon a roll call and vote on first reading of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: S. Lowenthal, O'Donnell, Schipske, Andrews, Reyes Uranga, Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: DeLong.

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 April 21, 2009, by the following vote:

Ayes: Councilmembers: S. Lowenthal, DeLong, O'Donnell, Schipske, Andrews, Reyes Uranga, Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: None.


Clerk

Approved: 4/24/09
(Date)


Mayor

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

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING ORDINANCE NO. ORD-09-0009 RELATING TO THE TEMPORARY LIMITATION ON SMOKING LOUNGES; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 5 of Ordinance No. ORD-09-0009, adopted on April 14, 2009, is amended to read as follows:

Section 5. Prohibition – “Smoking Lounges.” During the one (1) year interim period, and additional one (1) year interim period to April 14, 2011, no application shall be approved for a permit or business license for the development or operation of new smoking lounges citywide.

Section 2. Declaration of Urgency. This ordinance is an emergency measure, and it is urgently required for the reason that, pending completion of the necessary planning study, and a determination relative to the potential need to amend the Zoning or Building regulations of the City, it is necessary to temporarily prohibit development or operation of new smoking lounges that might be inconsistent with the pending revisions to the Zoning or Building regulations of the City being considered during the interim period.

Section 3. This ordinance is an emergency ordinance duly adopted by the City Council on _____, 20__, by a vote of at least five (5) of its members and shall take effect immediately. The City Clerk shall certify to a separate roll

1 call and vote on the question of the emergency of this ordinance and to its passage by
2 the vote of five members of the City Council of the City of Long Beach, and cause the
3 same to be posted in three conspicuous places in the City of Long Beach.

4 Section 4. This ordinance shall also be adopted by the City Council as a
5 regular ordinance, to the end that in the event of any defect or invalidity in connection
6 with the adoption of this ordinance as an emergency ordinance, the same shall,
7 nevertheless, be and become effective on the thirty-first day after it is approved by the
8 Mayor.

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

12 I hereby certify that on a separate roll call and vote which was taken by the
13 City Council of the City of Long Beach upon the question of emergency of this ordinance
14 at its meeting of _____, 20__, the ordinance was declared to be an
15 emergency by the following vote:

16 Ayes: Councilmembers: _____

17 _____

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19 Noes: Councilmembers: _____

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21 Absent: Councilmembers: _____

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I further certify that on _____, 20__, upon a roll call and
vote on first reading 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 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
_____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Clerk

Approved: _____
(Date)

Mayor