



## Legislation Text

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**File #:** 14-0386, **Version:** 2

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Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Subsection 5.48.010.F, relating to hotel and motel rentals; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, read and adopted as read. (Ordinance No. ORD-14-0005) (Citywide)

The attached amendment to Long Beach Municipal Code Section 5.4S.010 regulating the inspection of hotel and motel registers is proposed to address an issue identified by the federal court in *Patel v. City of Long Beach* (DC No. 2:0S-cv- 02S06-ABC-VBK).

In an effort to deter prostitution and other illegal activity, the Code requires that hotel owners collect and record information about guests, including name, address, arrival and departure information, the rate and method of payment and valid identification. Currently, the Municipal Code requires these records to be made available to any Long Beach police officer for inspection without consent or a search warrant. Failure to comply with an officer's demand is punishable as a misdemeanor.

Motel owners challenged the Code section, asserting a violation of the Fourth Amendment right to be free from warrantless searches. The trial court held for the City, and the plaintiffs appealed. The Ninth Circuit Court of Appeals reversed the decision, finding that a police officer's non-consensual inspection of business records constituted a Fourth Amendment search, and found that Section 5.4S.010 did not contain a required procedural safeguard: the opportunity for judicial review. In order to comply with the Fourth Amendment, the City must either obtain an inspection or search warrant, or otherwise give hotel operators the opportunity to challenge the reasonableness of an officer's demand for inspection.

The court's ruling is consistent with their recent ruling in *Patel v. City of LA* (738 F.3d 1058, 9th Cir., 2013) involving an ordinance similar to Long Beach's.

Accordingly, language has been added to Section 5.48.010 clarifying that an inspection or search warrant must be obtained in cases where consent is refused or cannot be obtained. It is proposed that this change be adopted immediately, as an urgency ordinance, to permit expeditious enforcement.

Approve recommendation.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING SUBSECTION 5.48.010.F RELATING TO HOTEL AND MOTEL RENTALS; DECLARING THE URGENCY THEREOF; AND**

DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

CHARLES PARKIN  
CITY ATTORNEY

By:  
AMY WEBBER  
Deputy City Attorney