



Legislation Text

File #: 13-0996, **Version:** 2

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Section 5.38.010, Tables 32-1 and 32-1A in Chapter 21.32, by amending the Use District Tables for PD-25 (Atlantic Avenue Planned Development District), PD-29 (Long Beach Blvd Planned Development District) and PD-32 North and South (Douglas Park Planned Development District); and by repealing Sections 5.38.020 through 5.38.140, all relating to fortunetelling, read and adopted as read. (Citywide)

Amendments A and C, above, to the Long Beach Municipal Code (LBMC) Titles 5 (Business License) and 21 (Zoning) are required to be made due to changes in state law and threatened litigation. Amendment B is made at the direction of the City Council.

Regulations governing fortunetelling appear in LBMC Sections 5.38 and 21.15.1100. Correspondence was received by City Attorney's Office in July 2013 threatening litigation related to language that was outdated, unclear and constitutionally offensive. The proposed amendment removes the outdated and offensive language, makes the definition of "fortunetelling" in the Business License section consistent with that in the Zoning section; removes the requirement of a \$250,000 bond and background check, but maintains the requirement of a City business license. It further removes the requirement of a Conditional Use Permit, and allows fortunetelling in commercial zones in the same manner as personal services.

Regulations governing secondhand dealers are contained in LBMC Sections 5.64.010C and 21.115.2401. The current definition of secondhand dealer does not capture "cash for gold" businesses. The proposed amendments to LBMC 5.64.010.C includes sales of tangible personal property, as determined by the State Attorney General, within the definition of "secondhand dealer" therefore requiring "cash for gold" businesses to record and maintain information from sellers, and thereby possibly deter criminals from attempting to sell stolen jewelry to these businesses. This definition is consistent with the California Business and Professions Code, which also requires that such businesses hold tangible personal property for thirty (30) days, identify sellers and complete similar procedures as a pawnshop, including obtaining a name, identification, and thumbprint of the seller, and a description of the item sold. Ultimately, this may result in reduced property crimes. The proposed amendment to Section 21.15.2008 to change the term "pawnbroker" to "pawnshop" will similarly capture "cash for gold" businesses and the like, and will be internally consistent with other relevant Sections of Title 21.

Regulations governing "Home Occupations" are found in LBMC Section 21.51.235. However, the Code does not address home food preparation businesses known as "Cottage Food" operations. Assembly Bill (AB) 1616 was recently adopted to allow cottage food operation uses as a permitted use in residential zones. A cottage food operation is essentially a business enterprise at a private home where low risk food products are prepared or packed for sale to consumers. A private home is considered a dwelling, including an apartment or other leased space, where individuals reside. The state law was intended to promote small businesses, and healthier, local, homegrown foods.

The City does have the ability to impose reasonable standards, restrictions and requirements related to a cottage food operation. The intent of the attached ordinance is to bring the City's Municipal Code into conformance with the new state law, while at the same time imposing the type of reasonable restrictions that the City typically applies to other home occupation businesses.

The proposed ordinance would classify a "Cottage Food Operation" as a "Home Occupation" in the City's Zoning Regulations. As a "Home Occupation," restrictions would also be imposed based upon the number of people able to engage in this type of activity at a particular location (two), commercial signage (none permitted), noise, types of mechanical equipment that can be used in the operation, public safety (i.e., no toxic, explosive or combustible materials to be stored on site), no outside or garage storage of materials, limitations on the number of business visitors per hour and day, and reasonable parking restrictions. In addition, the residential appearance of the premises could not be altered and the property owner would not be allowed to create a separate entrance to the dwelling for the purpose of accommodating the cottage food operation use.

PUBLIC HEARING NOTICE

Public Hearing notices were published in the Long Beach Press-Telegram on November 1, 2013, in accordance with the provisions of the Zoning Ordinance.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for the implementation of the California Environmental Quality Act, Categorical Exemption (CE-13-099) was issued for the proposed project. (Attachment 1.) In addition, adoption of the attached resolution refers the City-wide amendments affecting the Coastal Zone to the California Coastal Commission, as required by state law

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTION 5.38.010, TABLES 32-1 AND 32-1A IN CHAPTER 21.32, BY AMENDING THE USE DISTRICT TABLES FOR PD-25 (ATLANTIC AVENUE PLANNED DEVELOPMENT DISTRICT), PD-29 (LONG BEACH BLVD PLANNED DEVELOPMENT DISTRICT) AND PD-32 NORTH AND SOUTH (DOUGLAS PARK PLANNED DEVELOPMENT DISTRICT); AND BY REPEALING SECTIONS 5.38.020 THROUGH 5.38.140, ALL RELATING TO FORTUNETELLING

CHARLES PARKIN
CITY ATTORNEY

BY:
AMY R. WEBBER
DEPUTY CITY ATTORNEY

