



OFFICE OF THE CITY ATTORNEY
Long Beach, California

H-1

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City Attorney

March 19, 2013

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City of Long Beach
California

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RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance relating to the temporary limitation (moratorium) on mortuaries, funeral homes, and crematoriums read, adopted as read, and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof; and declaring this ordinance shall take effect immediately. (Citywide)

DISCUSSION

On February 19, 2013, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium against mortuaries, funeral homes, and crematoriums. The moratorium was initiated pursuant to the provisions of Chapter 21.50 of the Municipal Code, "Interim Prohibition of Uses."

The Ordinance which has been prepared for Council's consideration establishes a one year moratorium period. During this time, the Development Services Department and the Planning Commission will undertake a study on the propriety of amending the City's or zoning and/or business regulations related to the above described uses. The one year moratorium will apply to any development or business license application received by the City after February 19, 2013. As of February 19, 2013, there were no development applications or new business license applications on file related to the above described uses. Therefore, for the purpose of this moratorium, there is no mortuary, funeral home or crematorium that would be exempt from the provisions of the proposed moratorium.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
A13-00244

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH IMPOSING A MORATORIUM
RELATING TO MORTUARIES, FUNERAL HOMES, AND
CREMATORIIUMS; DECLARING THE URGENCY THEREOF
AND DECLARING THAT THIS ORDINANCE SHALL TAKE
EFFECT IMMEDIATELY

WHEREAS, mortuaries (sometimes referred to as "funeral homes") are currently regulated as institutional land uses in the City of Long Beach, and as such are permitted as a matter of right in the City's Community Automobile Oriented (CCA), Community Pedestrian Orientated (CCP), Community R-4-R (CCR), Community R-4-N (CCN), and Regional Highway (CHW) zoning districts; and

WHEREAS, crematoriums are permitted to exist as a matter of right as "accessory uses" to lawfully established mortuaries and funeral homes; and

WHEREAS, due to the City's existing zoning regulations, mortuaries, funeral homes, and crematoriums are located, or may be located, adjacent to residential or other potentially incompatible land uses; and

WHEREAS, it is in the City's best interest to promote orderly growth and balance the development of various types of land uses in order to discourage incompatible uses from developing that would be at odds with one another; and

WHEREAS, the City of Long Beach requires time to study the feasibility of developing suitable regulations of mortuaries, funeral homes, and crematoriums, as well as the zoning of these businesses within specific areas of the City; and

WHEREAS, in order to better protect the general health and welfare of the residents and businesses in the City of Long Beach, a temporary moratorium on the issuance of discretionary or ministerial permits including, but not limited to, business

1 licenses, zoning permits, zoning compliance certificates, building permits, and other
2 approvals for mortuaries, funeral homes and/or crematoriums will create a more stable
3 environment so that revisions of the City's Zoning Code and general regulatory
4 ordinances can, if necessary, be considered and adopted in an orderly and thorough
5 process.

6 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
7 follows:

8 Section 1. Purpose and Findings. At the direction of the City Council at
9 its duly noticed meeting of February 19, 2013, the Development Services Department
10 and the Planning Commission will undertake or are currently studying potential
11 amendments to the zoning regulations or business license regulations of the City of Long
12 Beach relating to the location and possible restrictions of land use approvals related to
13 mortuaries, funeral homes and/or crematorium businesses in the City. Residents,
14 Councilmembers, and other individuals have expressed concern that if such new
15 regulations are not studied and possibly implemented, incompatible land uses will
16 continue to develop which will be at odds with the City's General Plan and other
17 implementing ordinances of the City.

18 The City Council specifically finds that the existing regulations contained in
19 the zoning and business regulations of the City may be in conflict with the zoning and
20 business regulations that are, or will be, studied by the Development Services
21 Department and the Planning Commission pursuant to the City Council's direction. The
22 City Council further finds that this interim ordinance is not and shall not conflict with the
23 applicable provisions of the California Coastal Act.

24 Section 2. Estimated Time for Completion of Study. It is estimated that
25 the study or studies undertaken in connection with the adoption of this interim ordinance
26 shall take the Development Services Department and the Planning Commission
27 approximately one (1) year to complete. For the purposes of this ordinance, this interim
28 moratorium study period shall expire no later than February 18, 2014, or at such time as

1 the City does adopt appropriate zoning or business regulations related to all or some of
2 the above defined businesses, whichever is sooner.

3 Section 3. Prohibition. During the one (1) year interim moratorium
4 period, no application shall be approved for a discretionary or ministerial permit including
5 a business license, conditional use permit, administrative use permit or other land use
6 entitlement for the establishment, expansion or relocation of a mortuary, funeral home or
7 crematorium facility. Said prohibition shall apply Citywide for the duration of the one (1)
8 year interim moratorium period and shall not apply to the remodeling or repair of existing
9 facilities provided that the existing "footprint" of any on site, structure or building is not
10 expanded.

11 Section 4. Exceptions. The prohibition contained in this ordinance does
12 not apply to mortuaries, funeral homes, and crematoriums where an application for
13 development, construction, or use, by such mortuary, funeral home or crematorium was
14 on file and deemed complete by the Development Services Department on or before
15 February 19, 2013

16 Section 5. The City Council finds and determines that the proposed
17 interim ordinance is not in conflict with the various provisions of the California Coastal Act
18 because, among other things, the proposed interim ordinance does not in any way affect
19 access to or the enjoyment of coastal related activities.

20 Section 6. Declaration of Urgency. This ordinance is an emergency
21 measure, and it is urgently required for the reason that, pending completion of the
22 necessary planning study, and a determination relative to the potential need to amend
23 the zoning or business regulations of the City, it is necessary to limit new construction,
24 development or use of the above defined businesses and facilities in order to avoid
25 incompatible land uses from developing that might be inconsistent with the pending
26 revisions to the zoning or business regulations of the City being considered during the
27 interim period.

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1 Section 7. This ordinance is an emergency ordinance duly adopted by
2 the City Council by a vote of at least five (5) of its members and shall take effect
3 immediately. The City Clerk shall certify to a separate roll call and vote on the question
4 of the emergency of this ordinance and to its passage by the vote of five (5) members of
5 the City Council of the City of Long Beach, and cause the same to be posted in three (3)
6 conspicuous places in the City of Long Beach.

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

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

15 I hereby certify that on a separate roll call and vote which was taken by the
16 City Council of the City of Long Beach upon the question of emergency of this ordinance
17 at its meeting of _____, 2013, the ordinance was declared to be an
18 emergency by the following vote:

19 Ayes: Councilmembers: _____

20 _____

21 _____

22 Noes: Councilmembers: _____

23 _____

24 Absent: Councilmembers: _____

25 _____

26
27 I further certify that thereafter, at the same meeting, upon a roll call and
28 vote on adoption of the ordinance, it was adopted by the City Council of the City of Long

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1 Beach by the following vote:

2 Ayes: Councilmembers: _____

3 _____

4 _____

5 Noes: Councilmembers: _____

6 _____

7 Absent: Councilmembers: _____

8 _____

9 _____

10 I further certify that the foregoing ordinance was thereafter adopted on final
11 reading by the City Council of the City of Long Beach at its meeting of _____,
12 2013, by the following vote:

13 Ayes: Councilmembers: _____

14 _____

15 _____

16 Noes: Councilmembers: _____

17 _____

18 Absent: Councilmembers: _____

19 _____

20 _____

21 _____

22 _____ Clerk

23 _____

24 Approved: _____
25 (Date) Mayor

26 _____

27 _____

28 _____