



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

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April 14, 2009

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HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to receive supporting documentation into the record, conclude the hearing, declare ordinance relating to the temporary limitation (moratorium) on smoking lounges read the first time 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 March 17, 2009, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium against smoking lounges in the City.

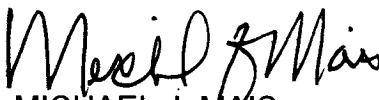
The Ordinance which has been prepared for Council's consideration establishes a one (1) year moratorium period. During this time, the Development Services Department and the Planning Commission will undertake a study on the propriety of amending the City's Zoning Regulations, Building Regulations and pertinent Municipal Code provisions related to smoking lounges. The one (1) year 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   
MICHAEL J. MAIS  
Assistant City Attorney

MJM:kjm

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH INVOLVING 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. Purpose and Findings. At the direction of the City Council, the Development Services Department and the Planning Commission will undertake a study of potential amendments to the Zoning Regulations, Building Regulations and other pertinent Municipal Code provisions of the City of Long Beach which would prohibit, limit or permit the approval of any permits for "smoking lounges" as that term is defined in Chapter 8.68 of the Municipal Code.

Section 2. Residents, Councilmembers and other individuals have expressed concern that the current regulations of the City may not fully address the impacts that smoking lounges may cause throughout the City.

Section 3. Currently, the City does not require the issuance of either a Conditional Use Permit (CUP) or Administrative Use Permit (AUP) for smoking lounges to legally operate in the City. The lack of administrative oversight may create a potential health and safety risk to the citizens of the City and those who either frequent or are employed by said smoking lounges.

The City Council specifically finds that the existing regulations contained in the Municipal Code may be in conflict with the Zoning and Building regulations that are or will be studied by the Development Services Department and the Planning Commission pursuant to the City Council's direction.

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 \_\_\_\_\_, 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

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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 \_\_\_\_\_, 2009, the ordinance was declared to be an  
13 emergency by the following vote:

14 Ayes: Councilmembers: \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17 Noes: Councilmembers: \_\_\_\_\_  
18 \_\_\_\_\_

19 Absent: Councilmembers: \_\_\_\_\_  
20 \_\_\_\_\_

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

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

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

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

12 I further certify that the foregoing ordinance was thereafter adopted on final  
13 reading by the City Council of the City of Long Beach at its meeting of  
14 \_\_\_\_\_, 2009, by the following vote:

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

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

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

24 \_\_\_\_\_  
Clerk

26 Approved: \_\_\_\_\_  
27 (Date)

26 \_\_\_\_\_  
Mayor