



OFFICE OF THE CITY ATTORNEY
Long Beach, California

UB-9

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
Richard F. Anthony
Amy R. Burton
Christina L. Checel
Randall C. Fudge
Charles M. Gale
Barbara J. McTigue
Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin
Linda Trong
Theodore B. Zinger

October 12, 2010

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Section 14.14.010, and Subsections 14.14.020.D and 14.14.045.B; and by adding Section 14.14.110, all relating to public walkways occupancy permits, read the first time and laid over to the next regular meeting of the City Council for final reading. (District 3)

DISCUSSION:

Pursuant to your request on September 21, 2010, this ordinance has been revised to apply to the Belmont Shore area only and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


LINDA TRANG
Deputy City Attorney

REDLINE

14.14.010 Definitions.

"Belmont Shore area" means both sides of Second Street from Livingston Drive to Bay Shore Avenue.

"Dining" means the consumption of food or beverage.

"Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queens Way Landing boat basin.

"Existing permit" means a public walkways occupancy permit that has been issued by the City Council.

"Existing permit in good standing" means a public walkways occupancy permit that has been issued by the City Council and is compliant with all laws and regulations, including the terms and conditions attached to that permit. "Existing permit in good standing" does not include a permit the term of which has expired prior to the submission of a completed application for renewal, including all required documentation.

"Minor modification of an existing permit" means a reconfiguration of the area occupied with no change to the total square footage occupied, a change in the use of the area

1 occupied which otherwise complies with all applicable laws and regulations, or a change
2 in the materials or equipment used within the area occupied ~~or a change in the hours or~~
3 ~~days of use deemed by the director of public works to be negligible.~~ "Minor modification
4 of an existing permit" does not include any increase to the total square footage occupied,
5 unless the ~~d~~Director of ~~p~~Public ~~w~~Works deems such change to be negligible.

6
7 "Obstruction" means any temporary or permanent structure or stationary object,
8 including, but not limited to, signs, displays, barriers, furniture, plants or plant containers,
9 musical equipment, or merchandise placed on a public walkway.

10
11 "Public property" means all eCity property, including "public walkways", as defined in this
12 eChapter, and public rights-of-way, and the underlayment or foundation thereof, and
13 public improvements thereon, including landscaping on or in such property.

14
15 "Public walkways" means all or any portion of territory within the eCity set apart and
16 designated for the use of the public as a thoroughfare for travel, and including alley, the
17 sidewalks, the center and the side plots thereof.

18 14.14.020 General requirements.

19 D. Permits for occupancy may contain restrictions for hours of the day or days of the
20 week during which the obstruction may occupy a public walkway as determined by the
21 eCity eCouncil, ~~except that minor modifications~~ or as determined or modified by the
22 Director of Public Works in his discretion with respect to an existing permit may be made
23 by the director of public works for public walkway occupancy in the Belmont Shore area
24 only.

25 14.14.045 Public walkways dining permits and entertainment permits.

26 B. Permits to occupy a portion of the public walkway for the
27 purposes of dining or entertainment may contain restrictions for hours of the
28 day or days of the week during which dining or entertainment may occur on

1 the public walkway as determined by the eCity eCouncil, Minor or as
2 determined or modified by the Director of Public Works in his discretion with
3 respect modifications to these standards may be made by the director of
4 public works to an existing permit in good standing for public walkway
5 occupancy in the Belmont Shore area only.

6
7 14.14.110 Appeal – City Council.

8 Except for minor modifications to an existing permit, any other determination or
9 modification to an existing permit made by the Director of Public Works may be appealed
10 to the City Council within ten (10) calendar days from the date of such determination or
11 modification in the manner provided in this Section.

12 A. The request for appeal shall be in writing, shall set forth the specific ground(s) on
13 which it is based and shall be submitted to the Director of Public Works.

14 B. If the appeal is made by a permittee involving such permittee's existing permit,
15 such appeal shall be accompanied by an appeal deposit in an amount determined by the
16 City Council by resolution. For appeals made by any person other than the permittee,
17 there shall be no required appeal deposit.

18 C. The City Council shall conduct a hearing on the appeal or refer the matter to a
19 hearing officer, pursuant to Chapter 2.93 of this Code, within sixty (60) business days
20 from the date the completed request for appeal was received by the Director of Public
21 Works, except where good cause exists to extend this period. The appellant shall be
22 given at least ten (10) business days written notice of such hearing. The hearing and
23 rules of evidence shall be conducted pursuant to Chapter 2.93 of this Code. The
24 determination of the City Council on the appeal shall be final.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTION 14.14.010, AND SUBSECTIONS 14.14.020.D AND 14.14.045.B; AND BY ADDING SECTION 14.14.110, ALL RELATING TO PUBLIC WALKWAYS OCCUPANCY PERMITS

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

Section 1. Section 14.14.010 of the Long Beach Municipal Code is amended to read as follows:

"Belmont Shore area" means both sides of Second Street from Livingston Drive to Bay Shore Avenue.

"Dining" means the consumption of food or beverage.

"Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queens Way Landing boat basin.

"Existing permit" means a public walkways occupancy permit that has been issued by the City Council.

"Existing permit in good standing" means a public walkways

1 occupancy permit that has been issued by the City Council and is compliant
2 with all laws and regulations, including the terms and conditions attached to
3 that permit. "Existing permit in good standing" does not include a permit the
4 term of which has expired prior to the submission of a completed application
5 for renewal, including all required documentation.

6 "Minor modification of an existing permit" means a reconfiguration of
7 the area occupied with no change to the total square footage occupied, a
8 change in the use of the area occupied which otherwise complies with all
9 applicable laws and regulations, or a change in the materials or equipment
10 used within the area occupied. "Minor modification of an existing permit"
11 does not include any increase to the total square footage occupied, unless
12 the Director of Public Works deems such change to be negligible.

13 "Obstruction" means any temporary or permanent structure or
14 stationary object, including, but not limited to, signs, displays, barriers,
15 furniture, plants or plant containers, musical equipment, or merchandise
16 placed on a public walkway.

17 "Public property" means all City property, including "public
18 walkways", as defined in this Chapter, and public rights-of-way, and the
19 underlayment or foundation thereof, and public improvements thereon,
20 including landscaping on or in such property.

21 "Public walkways" means all or any portion of territory within the City
22 set apart and designated for the use of the public as a thoroughfare for
23 travel, and including alley, the sidewalks, the center and the side plots
24 thereof.

25
26 Section 2. Subsection 14.14.020.D of the Long Beach Municipal Code is
27 amended to read as follows:

28 D. Permits for occupancy may contain restrictions for hours of the

1 day or days of the week during which the obstruction may occupy a public
2 walkway as determined by the City Council, or as determined or modified by
3 the Director of Public Works in his discretion with respect to an existing
4 permit for public walkway occupancy in the Belmont Shore area only.

5
6 Section 3. Subsection 14.14.045.B of the Long Beach Municipal Code is
7 amended to read as follows:

8 B. Permits to occupy a portion of the public walkway for the
9 purposes of dining or entertainment may contain restrictions for hours of the
10 day or days of the week during which dining or entertainment may occur on
11 the public walkway as determined by the City Council, or as determined or
12 modified by the Director of Public Works in his discretion with respect to an
13 existing permit in good standing for public walkway occupancy in the
14 Belmont Shore area only.

15
16 Section 4. Section 14.14.110 is added to the Long Beach Municipal
17 Code to read as follows:

18 14.14.110 Appeal – City Council.

19 Except for minor modifications to an existing permit, any other
20 determination or modification to an existing permit made by the Director of
21 Public Works may be appealed to the City Council within ten (10) calendar
22 days from the date of such determination or modification in the manner
23 provided in this Section.

24 A. The request for appeal shall be in writing, shall set forth the
25 specific ground(s) on which it is based and shall be submitted to the Director
26 of Public Works.

27 B. If the appeal is made by a permittee involving such permittee's
28 existing permit, such appeal shall be accompanied by an appeal deposit in

1 an amount determined by the City Council by resolution. For appeals made
2 by any person other than the permittee, there shall be no required appeal
3 deposit.

4 C. The City Council shall conduct a hearing on the appeal or
5 refer the matter to a hearing officer, pursuant to Chapter 2.93 of this Code,
6 within sixty (60) business days from the date the completed request for
7 appeal was received by the Director of Public Works, except where good
8 cause exists to extend this period. The appellant shall be given at least ten
9 (10) business days written notice of such hearing. The hearing and rules of
10 evidence shall be conducted pursuant to Chapter 2.93 of this Code. The
11 determination of the City Council on the appeal shall be final.

12
13 Section 5. The City Clerk shall certify to the passage of this ordinance by
14 the City Council and cause it to be posted in three (3) conspicuous places in the City of
15 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
16 Mayor.

17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted 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: _____

City Clerk

Approved: _____
(Date)

Mayor

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