



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

**ORD-27**

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April 2, 2013

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Subsection 3.80.146.J and Section 3.80.150, all relating to Real Estate Agents, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:

Pursuant to your request on March 12, 2013, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

AMY R. WEBBER  
Deputy City Attorney

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3.80.146 - Classifications of businesses.

J. "Services" means any business conducted or carried on by any person engaged in the business of providing services, repairs or improvements to or on real and personal property; renting or leasing personal property to businesses or persons; providing services to persons such as, but not limited to, laundries, cleaning and dyeing, shoe repair, barber and beauty shops, and photographic studios; or involving the operation of a hotel or motel. "Services" includes, but is not limited to, the business of:

1. Auto repair, services (transportation) and garages, including, but not limited to, aircraft for hire, aircraft repair, auto parking space, auto repair, auto wrecking, boats/common carrier, boats/pleasure, motorcycle rental, tow truck, and trailer rental;
2. Health service, including, but not limited to, hospital, hospital/convalescent and residential care home, or outpatient clinic;
3. Miscellaneous repair services, including, but not limited, general servicing;
4. Personal and business services, including, but not limited to, advertising agency, alarm installation/sales, animal kennel, barbershop, beauty shop, bathhouse/health parlor/spa, beach equipment rental, business trade school, cleaner, cleaning plant, collection agency, commission broker, dance instructor, day nursery/school, dog grooming, employment agency, fortuneteller, hotels, income tax, large volume transfer stations, linen supply, livery stable/riding academy, loan business, locksmith, manicurist, massage parlor, massager, miscellaneous rental, motels, nurses registry, offal collection, photographer solicitor/transient, photographer/studio, physical fitness, printing, private investigator, private patrol system, private waste collection, processing station, public relations, real estate

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broker, real estate agent, repossessing agency, tattoo artist, undertaker and wedding chapel; provided, however, that nothing in this Section shall be deemed to impose a separate business license tax upon an employee of any business which is otherwise subject to payment of the prescribed tax imposed by this Section including any tax which is based on the number of employees of such business.

3.80.150 - Employee.

As used in this eChapter, "employee" means either: (1) each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board; or (2) any person who is regarded as an employee of a business for purposes of the worker's compensation laws of the State of California (including, without limitation, a real estate agent working for, or engaged by, a real estate broker) and which business is subject to the provisions of this Chapter. Notwithstanding the above, the owner of a sole proprietorship shall not be deemed to be an "employee" for purposes of this eChapter.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY AMENDING SUBSECTION  
3.80.146.J AND SECTION 3.80.150, ALL RELATING TO  
REAL ESTATE AGENTS

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

Section 1. Subsection 3.80.146.J of the Long Beach Municipal Code is amended to read as follows:

J. "Services" means any business conducted or carried on by any person engaged in the business of providing services, repairs or improvements to or on real and personal property; renting or leasing personal property to businesses or persons; providing services to persons such as, but not limited to, laundries, cleaning and dyeing, shoe repair, barber and beauty shops, and photographic studios; or involving the operation of a hotel or motel. "Services" includes, but is not limited to, the business of:

1. Auto repair, services (transportation) and garages, including, but not limited to, aircraft for hire, aircraft repair, auto parking space, auto repair, auto wrecking, boats/common carrier, boats/pleasure, motorcycle rental, tow truck, and trailer rental;
2. Health service, including, but not limited to, hospital, hospital/convalescent and residential care home, or outpatient clinic;
3. Miscellaneous repair services, including, but not limited, general servicing;

1                   4.       Personal and business services, including, but not  
2       limited to, advertising agency, alarm installation/sales, animal kennel,  
3       barbershop, beauty shop, bathhouse/health parlor/spa, beach equipment  
4       rental, business trade school, cleaner, cleaning plant, collection agency,  
5       commission broker, dance instructor, day nursery/school, dog grooming,  
6       employment agency, fortuneteller, hotels, income tax, large volume  
7       transfer stations, linen supply, livery stable/riding academy, loan business,  
8       locksmith, manicurist, massage parlor, massager, miscellaneous rental,  
9       motels, nurses registry, offal collection, photographer solicitor/transient,  
10      photographer/studio, physical fitness, printing, private investigator, private  
11      patrol system, private waste collection, processing station, public  
12      relations, real estate broker, real estate agent, repossessing agency,  
13      tattoo artist, undertaker and wedding chapel; provided, however, that  
14      nothing in this Section shall be deemed to impose a separate business  
15      license tax upon an employee of any business which is otherwise subject  
16      to payment of the prescribed tax imposed by this Section including any  
17      tax which is based on the number of employees of such business.

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19                   Section 2.     Section 3.80.150 of the Long Beach Municipal Code is  
20      amended to read as follows:

21                   3.80.150     Employee.

22                   As used in this Chapter, "employee" means either: (1) each and  
23      every person engaged in the operation or conduct of any business, whether  
24      as owner, member of the owner's family, partner, associate, agent, manager  
25      or solicitor, and each and every other person employed or working in such  
26      business for a wage, salary, commission or room and board; or (2) any  
27      person who is regarded as an employee of a business for purposes of the  
28      workers' compensation laws of the State of California (including, without

1 limitation, a real estate agent working for, or engaged by, a real estate  
2 broker) and which business is subject to the provisions of this Chapter.  
3 Notwithstanding the above, the owner of a sole proprietorship shall not be  
4 deemed to be an "employee" for purposes of this Chapter.

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6 Section 3. The provisions of this ordinance relating to the obligations  
7 for payment of business license taxes by businesses with employees is intended as a  
8 clarification and restatement of existing taxing provisions of Title 3 of the Long Beach  
9 Municipal Code and not as an imposition of a new or increased tax.

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11 Section 4. Neither the adoption of this amendment nor the repeal or  
12 amendment of any other ordinance of this City shall in any manner affect the  
13 prosecution for violations of ordinances, which were committed prior to the effective  
14 date thereof, nor be construed as a waiver of any tax, license or penalty or of the penal  
15 provisions applicable to any violations thereof. The provisions of this amendment,  
16 insofar as they are substantially the same as ordinance provisions previously adopted  
17 by the City relating to the same subject matter, shall be construed as restatements and  
18 continuations, and not as new enactments.

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

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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