



OFFICE OF THE CITY ATTORNEY
Long Beach, California

UB-15

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Tiffany L. Shin
Linda Trang
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September 7, 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. (Citywide)

DISCUSSION:

Pursuant to your request on August 24, 2010, this ordinance has been revised to include an appeal process 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.

"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 occupied which otherwise complies with all applicable laws and regulations, or a change in the materials or equipment used within the area occupied ~~or a change in the hours or days of use deemed by the director of public works to be negligible.~~ "Minor modification of an existing permit" does not include any increase to the total square footage occupied,

1 unless the dDirector of pPublic wWorks deems such change to be negligible.

2
3 "Obstruction" means any temporary or permanent structure or stationary object,
4 including, but not limited to, signs, displays, barriers, furniture, plants or plant containers,
5 musical equipment, or merchandise placed on a public walkway.

6
7 "Public property" means all eCity property, including "public walkways", as defined in this
8 eChapter, and public rights-of-way, and the underlayment or foundation thereof, and
9 public improvements thereon, including landscaping on or in such property.

10
11 "Public walkways" means all or any portion of territory within the eCity set apart and
12 designated for the use of the public as a thoroughfare for travel, and including alley, the
13 sidewalks, the center and the side plots thereof.

14 14.14.020 General requirements.

15 D. Permits for occupancy may contain restrictions for hours of the day or days of the
16 week during which the obstruction may occupy a public walkway, as determined by the
17 eCity eCouncil, ~~except that minor modifications or as determined or modified by the~~
18 Director of Public Works in his discretion with respect to an existing permit. ~~may be made~~
19 ~~by the director of public works~~

20 14.14.045 Public walkways dining permits and entertainment permits.

21 B. Permits to occupy a portion of the public walkway for the purposes of dining or
22 entertainment may contain restrictions for hours of the day or days of the week during
23 which dining or entertainment may occur on the public walkway, as determined by the
24 eCity eCouncil. ~~Minor~~ or as determined or modified by the Director of Public Works in his
25 discretion with respect ~~modifications to these standards may be made by the director of~~
26 ~~public works to an existing permit in good standing.~~

27
28 14.14.110 Appeal – City Council.

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

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

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

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

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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 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:

"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

1 that permit. "Existing permit in good standing" does not include a permit the
2 term of which has expired prior to the submission of a completed application
3 for renewal, including all required documentation.

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

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

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

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

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

26 D. Permits for occupancy may contain restrictions for hours of the
27 day or days of the week during which the obstruction may occupy a public
28 walkway, as determined by the City Council or as determined or modified by

1 the Director of Public Works in his discretion with respect to an existing
2 permit.

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

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

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13 Section 4. Section 14.14.110 is added to the Long Beach Municipal
14 Code to read as follows:

15 14.14.110 Appeal – City Council.

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

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

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

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

9
10 Section 5. The City Clerk shall certify to the passage of this ordinance by
11 the City Council and cause it to be posted in three (3) conspicuous places in the City of
12 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
13 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

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