ORDINANCE NO. ORD-19-0010

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH IMPOSING INTERIM
REGULATIONS ON THE ISSUANCE OF BUILDING
PERMITS, CONDITIONAL USE PERMITS, OR OTHER
ENTITLEMENTS FOR NEW DRIVE-THROUGH LANES
THROUGHOUT THE CITY; DECLARING THE URGENCY
THEREOF; AND DECLARING THAT THIS ORDINANCE
SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, concerns have been raised over the number of applications for
Conditional Use Permits and other entitlements for new drive-through lanes at food and
other business establishments in all parts of the City; and

WHEREAS, residents, Councilmembers, and other stakeholders and
individuals have expressed concern that the current Zoning Regulations may not fully
address the impacts that drive-through lanes may have in the community, especially in
the underserved communities, and the effects of drive-through lanes on the City's major
streets; and

WHEREAS, maintaining the status quo with respect to drive-through lanes
in the City by assuring that no new applications for Conditional Use Permits or other
entitlements are accepted, and no new Conditional Use Permits or other entitlements are
issued, while the City conducts a study on drive-through lanes is consistent with good
planning; and

WHEREAS, the City's planning staff and the Planning Commission will
begin a study of drive-through lane regulations and prepare an implementation plan for
the roll-out of any new regulations; and

WHEREAS, the goal of any new drive-through regulations is to develop
comprehensive regulations which recognize and balance the various interests related to drive-through-lanes in a manner tailored to the City's unique needs and community vision, and which are supportive of more walkable and pedestrian friendly environments, and which reflect the land use and zoning policy choices of the City; and

WHEREAS, until the drive-through lane policy study is complete and any new regulations are adopted, there is a significant risk that some individuals or entities may make investments in new drive-through lanes that would soon thereafter be illegal, nonconforming, or subject to an amortization program; and

WHEREAS, the possibility that construction of drive-through lanes could be incompatible with any new drive-through lane regulations constitutes a current and immediate threat to the public health, safety, or welfare, and approval of Conditional Use Permits or other entitlements for such drive-through lanes would result in a threat to public health, safety, and welfare; and

WHEREAS, Chapter 21.50 of the Long Beach Municipal Code empowers the City to enact interim zoning regulations which takes effect immediately upon a showing of urgency;

WHEREAS, on April 9, 2019, the City Council adopted a minute order pursuant to an agenda request which initiated a moratorium relating to the issuance of building permits, conditional use permits, or other entitlements for new drive-through lanes throughout the City, and declaring the urgency thereof;

NOW, THEREFORE, 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 and Building Codes of the City of Long Beach regulating, limiting or prohibiting drive-through lanes at new establishments throughout the City. The City Council specifically finds that the existing regulations contained in the City's Zoning and Building regulations may be in conflict with the Zoning Regulations and Building Codes of the City of Long Beach.
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.

Section 2. Estimated Time for Completion of Study. It is estimated that the study or studies undertaken in connection with the adoption of this interim ordinance may take the Development Services Department and the Planning Commission approximately six (6) months to complete.

Section 3. Prohibition.

Notwithstanding any provision of the Long Beach Municipal Code to the contrary, for a period of six (6) months from the effective date of this Ordinance, which would be October 20, 2019, or until a permanent ordinance becomes effective, whichever occurs first:

A. No application for a Conditional Use Permit, building permit, or other entitlement for a drive-through lane at any facility, building, or structure in the City shall be accepted.

B. No Conditional Use Permit, building permit, or other entitlement for a drive-through lane at any facility, building, or structure in the City shall be issued.

C. No building or other permit shall be issued that would result in the conversion of any existing establishment to include a drive-through lane anywhere in the City.

Section 4. Exceptions.

A. The prohibitions specified in Section 3 of this Ordinance shall not apply to any drive-through construction for which a permit application is required as follows:

1. In order to comply with an order issued by the Department of Development Services to repair, remove, demolish or maintain any unsafe or a substandard condition with respect to any existing drive-through lane.

2. In order to replace or repair a drive-through lane damaged as a result of fire, earthquake, or other natural disaster, provided that the replacement or
repair is not prohibited by any other provision of the Long Beach Municipal Code.

B. The prohibitions specified in Section 3 of this Ordinance shall not apply to any Conditional Use Permit, building permit or other entitlement issued for a drive-through lane prior to the effective date of this Ordinance.

C. The prohibitions specified in Section 3 of this Ordinance shall not apply to the routine maintenance or repair of existing drive-through lanes provided that the drive-through lane is not enlarged in any manner. During the period of this interim ordinance no drive-through lane shall be removed and replaced for the purposes of modernization, except pursuant to an order issued by the Department of Development Services.

D. The prohibition specified in Section 3 of this Ordinance shall not apply to those certain properties as set forth in Exhibit “A” of this Ordinance for which Conditional Use Permits have been approved and building permits are pending or for those properties for which the City has received a complete project application and fees have been paid, all as is specified in Exhibit “A”, a copy of which is attached hereto, and incorporated herein, by this reference.

Section 5. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 6. Applicability of the Zoning Code. The regulations of this Ordinance are in addition to those set forth in the planning and zoning provisions of Chapter 21 of the Long Beach Municipal Code and any other ordinances adopted by the City Council, and do not contain any rights not otherwise granted under the provisions and procedures contained in that Chapter or any other ordinances.

Section 7. Urgency Clause. The City Council finds and declares that this ordinance is required for the immediate preservation of the public peace, health and
safety for the following reasons. This ordinance is necessary to prevent irreversible
development from occurring pending adoption of a permanent ordinance by preventing
the issuance of Conditional Use Permits, or other permits for the construction of drive-
through lanes at new establishments throughout the City and possibly undermine the
recommendations for updating the zoning regulations regarding drive-through lanes.
Therefore, this Ordinance shall become effective upon adoption pursuant to Long Beach
City Charter Sections 211 and 212.

Section 8. The City Council finds and determines that the proposed
interim ordinance is not in conflict with the various provisions of the California Coastal Act
because, among other things, the proposed interim ordinance does not in any way affect
access to or the enjoyment of coastal related activities.

Section 9. Declaration of Urgency. This ordinance is an emergency
measure, and it is urgently required for the reason that, pending completion of the
necessary planning study, and a determination relative to the potential need to amend
the Zoning or Building regulations of the City, it is necessary to temporarily prohibit the
issuance of Conditional Use Permits, and the development, operation or construction of
new drive-through lanes at establishments throughout the City, in order to avoid the
adverse impacts that might be inconsistent with the pending revisions to the Zoning or
Building regulations of the City being considered during the interim period.

Section 10. This ordinance is an emergency ordinance duly adopted by
the City Council on May 14, 2019, by a vote of at least five (5) of its members and shall
take effect immediately. The City Clerk shall certify to a separate roll call and vote on the
question of the emergency of this ordinance and to its passage by the vote of five
members of the City Council of the City of Long Beach, and cause the same to be posted
in three conspicuous places in the City of Long Beach.

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

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

I hereby certify that on a separate roll call and vote which was taken by the
City Council of the City of Long Beach upon the question of emergency of this ordinance
at its meeting of May 14, 2019, the ordinance was declared to be an
emergency by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price,
Mungo, Andrews, Uranga,
Austin, Richardson.

Noes: Councilmembers: Supernaw.

Absent: Councilmembers: None.

I further certify that on May 14, 2019, upon a roll call and
vote on first reading of the ordinance, it was adopted by the City Council of the City of
Long Beach by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price,
Mungo, Andrews, Uranga,
Austin, Richardson.

Noes: Councilmembers: Supernaw.

Absent: Councilmembers: None.
I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of May 21, 2019, by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Supernaw, Mungo, Andrews, Uranga, Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Price, Austin.

Approved: 5/17/19 (Date)

[Signature]
Mayor
CUP APPLICATIONS
EXEMPT FROM THE MORATORIUM

Approved CUP - Building Permits Pending

<table>
<thead>
<tr>
<th>Project Address</th>
<th>Applicant</th>
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<tbody>
<tr>
<td>4700 Cherry Avenue</td>
<td>Kevin Le</td>
</tr>
<tr>
<td></td>
<td>801 S. Myrtle Avenue</td>
</tr>
<tr>
<td></td>
<td>Monrovia, CA 91016</td>
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<tr>
<td>3639 E. 7th St.</td>
<td>Johanna Mumper + Jan Van Dijs</td>
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<tr>
<td></td>
<td>425 E. 4th St, Unit E</td>
</tr>
<tr>
<td></td>
<td>Long Beach, CA 90802</td>
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<tr>
<td>6600 Atlantic Ave.</td>
<td>Atlantic &amp; Artesia, LLC; Frontier Real Estate Investments</td>
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<tr>
<td>6141-6191 Atlantic Avenue</td>
<td>Westland Real Estate Group</td>
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<tr>
<td></td>
<td>520 W. Willow Street</td>
</tr>
<tr>
<td></td>
<td>Long Beach, CA 90806</td>
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<tr>
<td>5865 E. Spring Street</td>
<td>George Younan</td>
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<td>17042 Devonshire St, Ste. 214</td>
</tr>
<tr>
<td></td>
<td>Northridge, CA 91325</td>
</tr>
<tr>
<td>2528 / 2590 N. Lakewood Boulevard</td>
<td>McKently / Malak Architects</td>
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<td></td>
<td>Ken McKently</td>
</tr>
<tr>
<td></td>
<td>35 Hugus Alley, Suite 200</td>
</tr>
<tr>
<td></td>
<td>Pasadena, California 91103</td>
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Complete CUP Applications-Fees Paid

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<tr>
<td>739 E. Anaheim St.</td>
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<td>35 Hugus Alley, Ste. 200</td>
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<td>1320 Atlantic Ave.</td>
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<td>Pasadena, CA</td>
</tr>
<tr>
<td>7250 Carson Blvd</td>
<td>Michael Gant</td>
</tr>
</tbody>
</table>
STATE OF CALIFORNIA  ) ss
COUNTY OF LOS ANGELES  )
CITY OF LONG BEACH  )

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 15th day of May, 2019, I posted three true and correct copies of Emergency Ordinance No. ORD-19-0010 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

[Signature]

Subscribed and sworn to before me
This 15th day of May, 2019.

[CITY CLERK]
STATE OF CALIFORNIA  ss  
COUNTY OF LOS ANGELES  )
CITY OF LONG BEACH  )

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 22nd day of May, 2019, I posted three true and correct copies of Final Ordinance No. ORD-19-0010 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

[Signature]

Subscribed and sworn to before me
This 22nd day of May, 2019.

[Signature]
CITY CLERK