



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Community Development

MEETING DATE: May 15, 2012

PREPARED BY: Craig Jimenez, Planning Division Manager

AGENDA LOCATION: PH-1

TITLE: Extension of Interim Moratorium on the Opening and Licensing of New Tobacco Stores during the Review and Adoption of Amendments to Relevant Licensing and Zoning Regulations, Adoption of Ordinance 2012-04U

OBJECTIVE: To extend the interim moratorium for 10 months and 15 days prohibiting the opening of new retail tobacco establishments/smoke shops and issuing business licenses during a study and update of the City's regulation of retail tobacco establishments.

BACKGROUND: In March, several residents raised concerns at a City Council meeting pertaining to the proposed opening of a new "smoke shop" in Old Town. Under the existing regulations in the Zoning Ordinance, businesses that sell tobacco and tobacco related products are classified as retail uses which are permitted uses in Old Town. Pursuant to the provisions in the Monrovia Municipal Code, a business license was issued for a business at 512 South Myrtle Avenue. The business has not opened.

Based on the concerns raised, the City Council directed Staff to provide options to consider. Of the options presented, the City Council adopted an interim moratorium on the issuance of any additional business licenses for tobacco stores/smoke shops. The moratorium provided the City additional time to study the nature and character of the use and potential regulatory controls for tobacco stores. Pursuant to Government Code §65858, the City Council established a 45-day interim moratorium prohibiting the establishment of new tobacco shops/smoke shops. Absent any additional action, the interim ordinance will expire after 45 days on May 18, 2012.

ANALYSIS Since adoption of the interim ordinance, Staff has been exploring available options including how other jurisdictions regulate tobacco and tobacco related products. In this case, Staff is of the opinion that the problem is as much of a perception and assumption about how products sold will be used as it is a land use decision. At this point, Staff has identified several avenues that can be further explored. Based on direction given by the City Council, Staff will prepare draft regulations that will then follow the City's established procedures, which includes public hearings before the Planning Commission and the City Council.

The first step in policy analysis is to identify the problem. With that being said, there are two basic questions that will focus Staff's policy analysis: what is the specific problem to address? And what is the desired outcome? At this point, Staff has identified three broad options that can be further explored as part of the policy analysis and addressed in a proposed ordinance.

- Regulation of the sale of tobacco
- Regulation of the sale of tobacco-related products
- Regulation of the use by creating a separate use category that could be limited to specific zones

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As mentioned by the City Attorney, it will be important to identify the potential outcomes, both desired and unintended, for any proposed changes in the City's regulations. Staff will focus our analysis on those potential outcomes. In order to allow time for further study, Staff is recommending that after the public hearing, the City Council extend the moratorium as allowed by state law for 10 months and 15 days, expiring on March 30, 2013. Based on existing staff levels and case load, it is anticipated that a draft ordinance will be prepared prior to that date, however the longer timeline would allow Staff to fully vet the potential options, draft an ordinance and provide some flexibility in schedules to accommodate other projects

This staff report constitutes the City's written report describing measures taken to alleviate the conditions which led to the adoption of the moratorium. The City intends to fully alleviate those conditions and after further study will adopt permanent regulations.

ENVIRONMENTAL IMPACT: The ordinance proposes no physical change in the environment and is exempt from review under the California Environmental Quality Act (CEQA) as it will have no adverse environmental impact and does not affect the Monrovia Environmental Accords

FISCAL IMPACT: During the time the moratorium is in effect, there may be some minor fiscal impact to the City from business licenses for this use type not issued. Additionally, Staff time covered by the current budget will be expended to study and, if necessary, update the City's regulations

OPTIONS: Staff has identified the following options for the City Council to consider:

1. Extend the moratorium proposed by Staff and direct Staff to prepare an ordinance based on the direction given by the City Council
2. Take no action and let the interim moratorium expire on May 18, 2012 and direct Staff to prepare an ordinance based on direction given by the City Council.
3. Status quo. Take no action and let the interim moratorium expire on May 18, 2012 and make no changes to existing regulations.

RECOMMENDATION: Staff recommends that the City Council adopt the ordinance extending the interim moratorium on the licensing of new tobacco stores/smoke shops pending study and changes to the City's land use regulations.

COUNCIL ACTION REQUIRED: If the City Council concurs, following the public hearing, the appropriate action would be a motion to read by title only and adopt Urgency Ordinance No. 2012-04U

ORDINANCE 2012-04U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, EXTENDING THE INTERIM ZONING ORDINANCE PROHIBITING THE ESTABLISHMENT OF SMOKE SHOPS IN ANY ZONING DISTRICT WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA does ordain as follows:

SECTION 1. Findings.

The City Council of the City of Monrovia, as the legislative body of the City, makes the following findings in support of the extension of this interim zoning ordinance regulating land use within the City of Monrovia

A. On April 3, 2012, the City Council adopted a forty-five (45) day interim zoning ordinance prohibiting the establishment smoke shops, as defined, in any zoning district within the city.

B. The City's staff is conducting research and formulating options regarding potential new regulation of smoke shops in the City. It is in the best interest of public health, safety and welfare that the existing moratorium should continue until such time as the City Council and Planning Commission have the opportunity to review this issue.

C. The City Council held a duly noticed public hearing regarding this subject on May 15, 2012

D. The facts, circumstances and findings adopted by the City Council in Ordinance Nos. 2012-02 and 2012-02U remain true and correct. The City finds that an extension of the temporary moratorium on the establishment of such uses pursuant to Government Code Section 65858 is therefore necessary.

SECTION 2. Extension.

A. RECITALS The foregoing recitals are true and correct.

B. INTERIM PROHIBITION ON SMOKE SHOPS. The Interim Prohibition on Smoke Shops adopted through Ordinance Nos. 2012-02 and 2012-02U is hereby extended pursuant to Government Code Section 65858 for a period of 10 months and 15 days from adoption of this Ordinance.

C. CEQA COMPLIANCE. It can be seen with certainty that this extension ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council's action of adopting this ordinance and the effects derivative from that adoption are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section

15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061 (b)(3).) This finding is premised on the fact that the adoption of this extension will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration

SECTION 3. The City Clerk of the City of Monrovia shall certify to the passage and adoption of this ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 15th day of May, 2012.

BY:

Mary Ann Lutz, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONROVIA)

I, Alice Atkins, CMC, City Clerk of the City of Monrovia, California, do hereby certify that the foregoing Ordinance No. 2012-04U was duly passed by at least a 4/5 vote following a public hearing at a regular meeting of the City Council on the 15th day of May, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST.

Alice D. Atkins, CMC, City Clerk
City of Monrovia