



CITY COUNCIL AGENDA REPORT

MEETING DATE: DECEMBER 3, 2013

ITEM NUMBER:

SUBJECT: CODE AMENDMENT CO-12-07: CONSIDERATION OF A MORATORIUM EXTENSION REGARDING HOOKAH PARLORS

DATE: NOVEMBER 25, 2013

FROM: DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY: MEL LEE, AICP
SENIOR PLANNER**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, 714-754-5611
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RECOMMENDATION:

Recommend that City Council adopt an extension of the hookah parlor moratorium considered under Code Amendment CO-12-07 for a period not to exceed 10 months, 15 days.

BACKGROUND:

On November 5, 2013, the City Council considered two hookah parlor-related ordinances that respectively proposed the following:

- 1) An ordinance that provided permanent regulations in the Costa Mesa Municipal Code by defining hookah parlors in the Zoning Code and prohibiting new hookah parlors in all zoning districts; and
- 2) An urgency ordinance (moratorium) for an initial period of 45 days that prohibited the opening or commencement of hookah parlors as a new business; the conversion of an existing business to a hookah parlor; the relocation of any such business; or the expansion (physical or otherwise) of any such business.

On November 5, 2013, the City Council voted to approve the initial 45-day hookah parlor moratorium to allow City staff and the City Attorney more time to explore and study hookah parlor regulations that would not prohibit such a use in the City.

A copy of City Council staff report from November 5, 2013 meeting is attached to this report for reference.

ANALYSIS:

Government Code Section 65858 provides for the adoption, as an urgency measure, interim ordinances for certain expressed purposes by a vote of four-fifths (4/5) majority of the voting City Council members. Pursuant to Government Code Section 65858, a moratorium shall remain in effect for an initial 45-day period and may be extended, after notice and public hearing, for an additional 10 months and 15 days to alleviate a current and actual threat to the public health and safety.

City staff is requesting an extension of the moratorium for a period not to exceed 10 months and 15 days to allow for further study of hookah parlor regulations and to allow for adequate time to present the permanent zoning regulations to the Planning Commission and the City Council at future duly-noticed public hearings. Staff does not yet have a firm timeline regarding future public hearings at the Planning Commission and City Council, but currently anticipates that the future public hearings will occur in the first half of calendar year 2014.

Report Relating To Measures Taken By The City Pursuant To Section 65858 Of The Government Code

The City has taken the following measures to alleviate the conditions created by hookah parlors: increased code enforcement activity against hookah parlors that are operating in violation of the City's code or state law; begun investigating what restrictions, if any, other nearby communities have taken to mitigate the problems created by hookah parlors; and begun investigating potential zoning and operating limitations on hookah parlors to alleviate the secondary effects of second hand smoke, noise, parking and traffic.

PUBLIC NOTICE

Code-required public notice was provided via the following methods:

1. Publication of a display ad in the local newspaper (Daily Pilot).
2. Notice of the public hearing was mailed to the following:
 - a. Existing hookah parlor owners.
 - b. Costa Mesa Chamber of Commerce.
 - c. Orange County Health Care Agency.

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) (General Rule) of CEQA because there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.

ALTERNATIVES CONSIDERED

City Council may consider the following alternatives:

1. Approve the urgency ordinance (moratorium) extension for a period not to exceed 10 months and 15 days.
2. Receive and file the report and allow the initial 45-day moratorium to expire, which would require the City to process hookah-parlor related applications upon expiration without formal regulation in the Costa Mesa Municipal Code.

FISCAL REVIEW

The proposed ordinance and moratorium are not likely to have any direct fiscal impact.

LEGAL REVIEW

The City Attorney has reviewed this report and its attachments and has been approved as to form by the City Attorney's Office.

CONCLUSION

The moratorium extension (not to exceed 10 months and 15 days) is recommended by City Staff and the City Attorney as it would allow adequate time for City Staff and the City Attorney to explore and study hookah parlor land use regulations that do not involve a prohibition of such a use. Furthermore, the extension would allow staff adequate time to present these solutions to both the Planning Commission and City Council at duly noticed public hearings. The moratorium extension will become effective immediately upon adoption by City Council.

MEL LEE, AICP
Senior Planner

GARY ARMSTRONG, AICP
Economic and Development Services
Director / Deputy CEO

ATTACHMENTS: [1. Ordinance No. 13-07](#)
 [2. Draft Urgency Ordinance \(Moratorium\) Extension](#)
 [3. November 5, 2013 City Council Report and Attachments](#)

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