



## **AGENDA REPORT**

**Meeting Date:** March 6, 2012

**Item Number:** D-2

**To:** Honorable Mayor & City Council

**From:** Susan Healy Keene, AICP, Director of Community Development

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS EXTENDING INTERIM ORDINANCE 11-O-2608 PROHIBITING HIGH IMPACT CONVENIENCE STORES UNLESS SPECIFICALLY APPROVED BY THE CITY, AND DECLARING THE URGENCY THEREOF

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

Staff recommends that the City Council adopt an ordinance extending Interim Ordinance 11-O-2608 prohibiting high impact convenience stores unless specifically approved by the City, and declaring the urgency thereof for up to one more year to allow the Planning Commission additional time to refine the draft permanent convenience store ordinance.

### **INTRODUCTION**

On February 7, 2012, the City Council considered a permanent zoning ordinance to regulate high-impact convenience stores. During deliberation, the City Council had concerns about one of the conditional use findings that had been revised after the Planning Commission's review. The City Council continued the public hearing to February 21, 2012, and requested input from the Planning Commission on that finding and other specific aspects of the ordinance.

The Planning Commission convened a special meeting on February 9, 2012 and restudied the ordinance; however additional time is needed to fully consider ordinance revisions.

The current urgency ordinance is set to expire on April 20, 2012. To avoid a gap in regulations while providing additional time for the Planning Commission to study the permanent ordinance, staff is proposing to extend the current urgency ordinance for up to one year. The extension ordinance will continue all of the provisions and findings outlined in the prior urgency ordinances. Adopting the extension ordinance will provide ample time to complete the permanent ordinance and return it to the City Council for consideration. It is anticipated that the Planning Commission will complete its review in March, and scheduled for City Council consideration in April or May.

### **PUBLIC NOTICING**

The public hearing for this extension ordinance was duly noticed for February 17, 2012. As of the writing of this report no public comments have been received.

### **ENVIRONMENTAL ASSESSMENT**

Extension of the urgency ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA guidelines, and the environmental regulations of the City. It can be seen with certainty that there is no possibility that the adoption and implementation of the Interim Ordinance or extension thereof may have a significant effect on the environment. This extension of the Interim Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This extension is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

### **FISCAL IMPACT**

This item has no significant fiscal or budgetary impacts.

Susan Healy Keene, AICP  
Director of Community Development



# **Attachment 1**

ORDINANCE NO. 12-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
EXTENDING INTERIM ORDINANCE 11-O-2608  
PROHIBITING HIGH IMPACT CONVENIENCE STORES  
UNLESS SPECIFICALLY APPROVED BY THE CITY, AND  
DECLARING THE URGENCY THEREOF.

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS  
FOLLOWS:

**Section 1. Legislative Findings.**

The City Council of the City of Beverly Hills is concerned that high impact convenience stores may not be compatible with nearby land uses in the City. Such uses can generate excessive noise and litter, increase traffic, exacerbate parking issues, and reduce the value and enjoyment of nearby properties. As such, the City Council is in the process of devising permanent regulations regarding the development and operation of convenience stores.

Because the public process of adopting permanent regulations may be lengthy, and because the establishment of high impact convenience stores during the public process might frustrate the ultimate regulation adopted, the City Council adopted Ordinance No. 11-O-2608, an interim ordinance that took effect immediately on April 21, 2011 (the "Interim Ordinance"). The Interim Ordinance defines and then prohibits "high impact convenience stores" in the City, allowing them only pursuant to a convenience store conditional use permit. On May 24, 2011, the City Council extended the effective period for the Interim Ordinance for an additional 10 months and 15 days. At that time, the City Council also amended the definition of "high impact convenience stores" for the purposes of the Interim Ordinance.

**Section 2. Authority.**

Pursuant to Government Code Section 65858, the City Council may adopt, as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying or intends to study within a reasonable period of time. After public notice, the City Council may extend the interim ordinance pursuant to Government Code Section 65858. The City Council previously extended

Ordinance No. 11-O-2608 to remain effective for an additional 10 months and 15 days. The City Council finds that it is necessary to extend Ordinance No. 11-O-2608 again to remain in effect while the City refines permanent regulations. Notice of the public hearing at which the City Council considered adopting the current extension ordinance was duly published on February 17, 2012 in the Beverly Hills Courier and also published on February 23, 2012 in the Beverly Hills Weekly.

**Section 3. Urgency Findings.**

The City Council finds and determines that the unregulated operation of high impact convenience stores would result in an immediate threat to the public health, safety or welfare. As described in Section 1, the high customer turnover and vehicle-focused nature of high impact convenience stores will likely result in increased localized traffic, parking problems, and unwanted commercial intrusions into established residential neighborhoods. In addition, high impact convenience stores may increase litter and generate excessive noise that would deteriorate the quality of life for those in the immediate vicinity. The unregulated establishment of high impact convenience stores during the Council's review and consideration of permanent regulations could frustrate the ultimate regulation adopted. At the same time, overly inclusive regulations may have the unintended effect of hindering the development of convenience stores that do not have negative consequences on the surrounding neighborhoods. Thus, to preserve the public health, safety and welfare, it is necessary that this Ordinance take effect immediately to extend the Interim Ordinance, as amended by the subsequent Ordinance 11-O-2609 extending Ordinance No. 11-O-2608. This additional extension of time will allow the City to develop regulations that effectively protect neighborhoods while limiting its applicability to those convenience stores that negatively affect surrounding neighborhoods.

**Section 4. CEQA Findings.**

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of the Interim Ordinance or any extension thereof may have a significant effect on the environment. This extension of the Interim Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general welfare. This extension is therefore exempt from

the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

**Section 5. Severability.**

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

**Section 6. Approval and Extension of Ordinance.**

This Ordinance, adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall extend the effect of the Interim Ordinance, as amended by Ordinance 11-O-2609, for an additional period of one year. The Interim Ordinance shall remain in effect until April 20, 2013.

**Section 7. Publication.**

The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Adopted:

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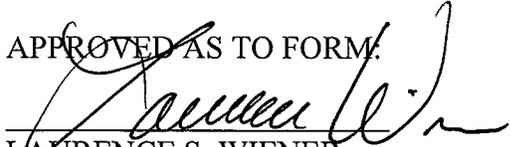
BARRY BRUCKER  
Mayor of the City of  
Beverly Hills, California

ATTEST:

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BYRON POPE (SEAL)  
City Clerk

[Signatures continue]

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

  
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SUSAN HEALY KEENE  
Director of Community Development