



AGENDA REPORT

Meeting Date: May 24, 2011

Item Number: D-1

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, Assistant Director of Community Development
Peter Noonan, AICP, Associate Planner

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

RECOMMENDATION

Staff recommends that the City Council extend Interim Ordinance 11-O-2608, which prohibits high impact convenience stores and establishes a discretionary review process whereby the City may allow certain convenience stores to be established if specific findings can be made. Staff recommends that the City Council extend the urgency ordinance for up to 10 months and 15 days to allow sufficient time to study convenience stores and draft a permanent ordinance for the Council's consideration.

DISCUSSION

On April 21, 2011, the City Council adopted an Interim Ordinance Prohibiting High Impact Convenience Stores Unless Specifically Approved by the City. The ordinance expires on June 5, 2011.

Extending the urgency ordinance would continue the prohibition on high impact convenience stores for up to an additional 10 months and 15 days. This will allow time to prepare and adopt a permanent ordinance in accordance with the State law process for amending the City's zoning code. This process includes duly noticed public hearings before the City's Planning Commission and the City Council.

Since the adoption of the Interim Ordinance, the City has initiated studies necessary and appropriate to evaluate the potential neighborhood impacts that could be associated with high impact convenience stores. As a result of this initial study, the definition provided for "High Impact Convenience Store" has been changed to ensure that it does not include newsstands, coffee shops, and any retail business containing a licensed pharmacy. The current definition is provided below, with the new language underlined.

"High-Impact Convenience Store: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday and before 9:00 a.m. or after 9:00 p.m. on Sunday, and (3) meets one of the following – is served by on site surface parking, or is located within three hundred feet of a residential zone. 'High impact convenience stores' do not include newsstands, coffee shops, or any retail store containing a licensed pharmacy that is devoted to dispensing prescription medicine."

Once the City has fully studied the potential impacts associated with high-impact convenience stores, a recommendation will be transmitted to the City Council regarding the appropriateness of developing a zoning mechanism for reviewing new convenience store proposals. The intent of this study and recommendation is to assure that the City has a means of reviewing new convenience store proposals to prevent negative impacts to the surrounding neighborhoods. Staff anticipates that the recommendation will include a mechanism for determining whether a new convenience store should be considered a "high impact" convenience store. Staff also anticipates that the recommendation will include a permanent review process for those new convenience store proposals that have the potential to be high-impact.

Staff anticipates bringing a permanent ordinance to the Planning Commission for consideration within the next eight months. Once the Planning Commission has studied the proposal and recommended a course of action, Staff will return to the City Council with a draft ordinance for the Council's consideration.

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

FISCAL IMPACT

Fiscal impacts at this time include staff hours to conduct appropriate studies and prepare the required ordinances.

 Susan Healy Keene, AICP
Director of Community Development

Attachment 1

ORDINANCE NO. 11-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 as defined by this ordinance 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 wishes to consider 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.

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 by a period of 10 months and 15 days, pursuant to Government Code Section 65858. Notice of the public hearing at which the City Council considered adopting this extension ordinance was duly published on May 13, 2011 in the Beverly Hills Courier and also published on May 12, 2011 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. Thus, to preserve the public health, safety and welfare, it is necessary that this Ordinance take effect immediately to prevent such harm.

Section 4. Amendment to the Definition of "High Impact Convenience Store."

In order to ensure that the Interim Ordinance does not apply to businesses that do not cause the impacts about which the City Council is concerned, the City Council hereby amends the definition of "high impact convenience store" stated in the Interim Ordinance to read as follows:

"High Impact Convenience Store: Any retail store with the following characteristics: (1) more than half the square footage is dedicated to the sale of general food and drink products not intended for home preparation and consumption, tobacco, magazines, and toiletries, (2) the store is open to customers before 7:00 a.m. or after 9:00 p.m. Monday through Friday or before 9:00 am or after 9:00 pm on Saturday or Sunday, and (3) has one of the following characteristics – is served by on site surface parking, or is located within three hundred feet of a residential zone. 'High impact convenience stores' do not include newsstands, coffee shops, or any retail store containing a licensed pharmacy that is devoted to dispensing prescription medicine."

Section 5. 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 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 6. 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 7. 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 amend and extend the effect of the Interim Ordinance for a period of ten (10) months and fifteen (15) days. After notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of the Interim Ordinance for an additional one year period, as provided in Government Code Section 65858.

Section 8. 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.

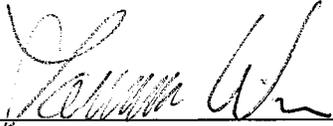
ADOPTED:

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager



SUSAN HEALY KEENE
Director of Community Development