

**CITY OF MANHATTAN BEACH  
DEPARTMENT OF COMMUNITY DEVELOPMENT**

**TO:** Planning Commission

**FROM:** Richard Thompson, Director of Community Development

**BY:** Esteban Danna, Assistant Planner

**DATE:** August 24, 2011

**SUBJECT:** Consideration of Zoning Text and Local Coastal Program Amendments to Allow Tattoo Studios to Operate within the City.

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the information presented, **PROVIDE DIRECTION**, and **CONTINUE** the Public Hearing to September 28, 2011.

**BACKGROUND**

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. No applications have been made to the City for a new tattoo studio; however, Staff has received a few telephone and e-mail inquiries indicating interest in establishing such businesses in Manhattan Beach. The Municipal Code does not presently make provision for such use.

At its July 19, 2011 regular meeting, the City Council adopted Ordinance No. 2148U (Exhibit A) establishing a 45 day moratorium for tattoo studios. The ordinance maintains the status quo by prohibiting the approval of Tattoo Studios and gives Staff time to develop regulations that will allow the operation of such uses. On August 2, 2011, through Ordinance No. 2151U (Exhibit B), the City Council extended the moratorium and directed that the Planning Commission make a recommendation on an expedited schedule. Body piercing will also be evaluated as requested by the City Council.

The reason that this matter has been brought to the Planning Commission on an expedited schedule is to give the Planning Commission and the City Council an opportunity to consider whether tattoo and body piercing studios require any additional restrictions beyond what the City currently imposes on other Personal Service type land uses. Until a recent court decision, cities had not afforded tattoo studios any special consideration. Tattoo studios were presumed to be a land use subject to cities' land use authority, which allows cities to impose zoning regulations that are rationally related to legitimate government goals. To create zones of compatible uses, depending on the aesthetic goals sought to be achieved, some cities limited tattoo studios to certain types of districts and some prohibited them all together. As with any use not permitted in any zoning

district, tattoo studios are prohibited under the current zoning ordinance.

In the case of *Johnny Anderson v. City of Hermosa Beach*, the court held on September 9, 2010 that Hermosa Beach's total ban on tattoo studios was unconstitutional because the court concluded that tattooing is a "purely expressive activity fully protected by the First Amendment," subject only to reasonable "time, place, or manner" restrictions. Regulation of the time, place, or manner of protected speech "must be narrowly tailored to serve the government's legitimate, content-neutral interests."

The result of this court decision is that Manhattan Beach must allow tattoo studios somewhere in the City. If the City finds that reasonable regulation of the time, place, or manner of the operation of tattoo studios is necessary to mitigate secondary effects of studios, then the City may impose such regulations. . This is a legal limitation on all businesses that involve activities protected by the first amendment. For example, even though signs are protected by the first amendment, it has been well-documented that excessive number, size, illumination or movement in signs oriented toward streets may have an impact on traffic safety. Therefore, a city may limit the number of signs or their size or whether they have flashing lights or moving parts in order to address the traffic safety concerns. But because signs are protected by the first amendment, a city could not outlaw them altogether. Likewise, adult businesses are a form of "expression" protected by the first amendment; however, many cities have documented secondary effects such as increased prostitution and crime in neighborhoods where such uses are concentrated. Accordingly, to address these affects, cities may regulate the place of such businesses by requiring a physical separation among adult businesses or limit their late night hours. The *Johnny Anderson* decision held that tattooing is protected by the first amendment which similarly may be subjected to certain time, place, and manner restrictions to address secondary land use impacts, if any are identified based on evidence.

Body piercing is generally a companion use to tattooing and the City may impose the same regulations on both or include the two activities in the same definition of use. The *Johnny Anderson v. Hermosa Beach* decision did not address body piercing uses.

## **DISCUSSION**

Currently, tattoo and body piercing studios are not listed as a permitted use under the City's Zoning Ordinance. Manhattan Beach Municipal Code (MBMC) Section 10.08.020 states that any new use or any use that cannot be clearly determined to be in an existing use classification may only be incorporated into the zoning regulations through a Zoning Ordinance text amendment.

### ***Other Jurisdictions***

Nearby Cities treat tattoo studios differently. Most of these regulations, however, pre-date the *Johnny Anderson* decision. The Torrance Municipal Code currently prohibits tattoo studios. Redondo Beach also prohibits tattoo studios as it specifically excludes tattoo studios from the Personal Convenience Services use. Many Cities, including El Segundo and Manhattan Beach are silent on tattooing, which by default does not permit the use because it is not listed as a permitted use. In contrast, the City of West Hollywood regulates tattoo studios as a Personal Services use. As

discussed previously, the *Johnny Anderson v. Hermosa Beach* decision prohibits the ban of tattoo studios.

The City of Hawthorne has recently adopted an ordinance addressing tattoo studios. The ordinance allows tattoo studios to operate within the Industrial districts and only through a use permit. The ordinance also establishes certain performance standards, such as limited hours of operations and minimum distances to other tattoo studios and schools.

The City of Lawndale's Planning Commission and City Council are currently reviewing an ordinance to regulate tattoo studios. The proposed ordinance would allow tattoo studios to operate in some of the City's commercial zones through a use permit. Similar to the City of Hawthorne, certain performance standards are also proposed such as minimum distances to schools, parks, churches, and other establishments of the same use. Other performance standards address body piercing regulations with regards to piercing specific parts of the body on both patrons under the age of 18 and adults.

The City of Signal Hill's Planning Commission and City Council are also currently reviewing an ordinance to regulate tattoo studios. They are proposing to allow tattoo studios to operate as a permitted use with certain performance standards, such as minimum distances to schools, parks, churches, and other establishments of the same use.

As previously mentioned in this report, the City of Hermosa Beach has recently adopted regulations for tattoo studios and body piercing establishments. These are permitted uses in two of the three commercial zones. However, certain performance standards must be met, such as a minimum distance to other establishments of the same use, limits on hours of operation, and not allowing the expansion of existing tattoo businesses at a future date. The City of Hermosa Beach also amended its Health and Safety code to enforce health related tattoo studio regulations. Recently, Hermosa Beach residents expressed concerns for one of the tattoo studios operating within the City. The City Council referred the matter to the Planning Commission for any recommendation to amend the code. The Commission considered various additional performance standards but the Council decided not to take further action.

### ***Ordinance Options***

The City has a few options. If the City does not find evidence that these uses are likely to create secondary impacts different than other personal service uses, the City may allow tattoo and body piercing studios with no discretionary review in those zones where other personal services are allowed. Alternatively, in order to segregate this type of personal service, the City may allow the use in certain commercial zones where they are more compatible with existing uses in these zones. The City may want to consider imposing location restrictions, for example 1,000 foot distance between body art studios in order to avoid a concentration of such uses which might lead to secondary effects in the neighborhoods. Other minimum distance limitations may be applied to proximities of church, school, and residential uses provided the City shows adverse secondary impacts of body art establishments to said uses. Operating standards relating to Health Department

permits, hours of operation, and waste disposal plans are also acceptable restrictions if the City finds that these restrictions are necessary to protect public health and safety.

The Planning Commission may consider the following options to allow the operation of tattoo studios within the City:

1. Classify Tattoo Studios as a Personal Service Use

The least restrictive option is to amend the definition of the Personal Services use to include tattoo and body piercing studios. Per MBMC 10.08.050U, Personal Services use is defined as the “provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops (including incidental massage), seamstresses, tailors, shoe repair shops, dry-cleaning businesses (excluding large-scale bulk cleaning plants), photo-copying, and self-service laundries.” The definition would be amended to include tattoo and body piercing studios. This option would allow these establishments to be permitted anywhere that Personal Services is permitted. MBMC 10.16.020 allows Personal Services uses in all of the City’s commercial districts.

2. Create New Tattoo and Body Piercing Studio Classification and Specify Commercial Districts for Such Use

The Planning Commission also has the option to recommend that a new use classification be created specifically for tattoo and body piercing studios. This option allows the Commission and City Council to designate specific commercial districts in which such uses can operate. If this option is to be recommended, Staff requests the Commission to consider allowing tattoo and body piercing studios to operate in the Commercial North End (CNE) and the General Commercial (CG) districts and employing the performance standards described below.

3. Employ Either Option Above and Create Reasonable Performance Standards

The Planning Commission may also discuss imposing reasonable performance standards to tattoo and body piercing studios regardless of whether they are classified as a Personal Service use or if a new classification is created for such use. Staff recommends that the Commission discuss and consider individually the following reasonable standards for all tattoo and body piercing studios:

- Limit the hours of operation from 10 am to 10 pm every day.
- Establish a minimum distance between tattoo and body piercing studios and Mira Costa High School.
- Establish a minimum distance for such uses to other establishments of the same use.
- Prohibit the public display of the services in progress (eliminating the potential to have a “spectator area”).
- Additional standards may be imposed to address other reasonable health and safety concerns.

### ***Authority of the Planning Commission***

Before the City Council may adopt a Zoning Ordinance and Local Coastal Program amendments, pursuant to MBMC 10.96 the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council after making specific findings as to whether the proposed zoning regulation is consistent with the policies of the General Plan and the purposes of the title.

### ***General Plan Goals and Policies***

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. The proposed amendment to Title 10 of the Municipal Code is consistent with and will advance the following goals of the Manhattan Beach General Plan:

- Goal LU-6: Maintain the Viability of the Commercial areas of Manhattan Beach.*
- Goal LU-6.1: Support and encourage small businesses throughout the City.*
- Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.*
- Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.*

### ***Next Steps***

Through Planning Commission direction, Staff will prepare new code language to allow the operation of tattoo and body piercing studios and will present the proposed language to the Planning Commission at a public hearing scheduled for September 28, 2011. The Planning Commission recommendation will then be forwarded to City Council. The City Council will also conduct a public hearing and may take action on the Zoning Ordinance text and Local Coastal Program amendments. Amendment to the Local Coastal Program will also require review and certification by the California Coastal Commission. In order to avoid a violation of the United States Constitution's First Amendment, the City must make every effort to avoid any unreasonable delay in establishing reasonable time, place, and manner regulations for tattoo studios.

### ***Public Input***

A one-quarter page public notice for the Zoning Ordinance amendment was published in the Beach Reporter newspaper. Staff did not receive any additional comments at the writing of this report.

## **ENVIRONMENTAL REVIEW**

Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject amendment is exempt in that it is covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.

## **CONCLUSION**

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the information presented, **PROVIDE DIRECTION**, and **CONTINUE** the Public Hearing to September 28, 2011.

### Attachments:

- A. Ordinance No. 2148U
- B. Ordinance No. 2151U
- C. City Council Staff Reports and Ordinance Nos. 2148U and 2151U dated July 19 and August 2, 2011
- D. City Council Minutes dated July 19 and Draft Minutes dated August 2, 2011
- E. City of Hermosa Beach Tattoo and Body Piercing Studio Regulations (Ordinance No. 10-1313)
- F. Planning Commission Meeting Notice

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ORDINANCE NO. 2148U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH  
PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN  
STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS  
WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN  
ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE  
URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

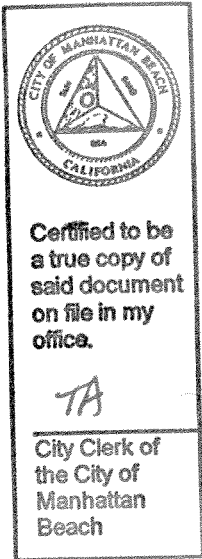
The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to place an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance or any extension thereof.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 5. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.



SECTION 6. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance .Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its adoption unless extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

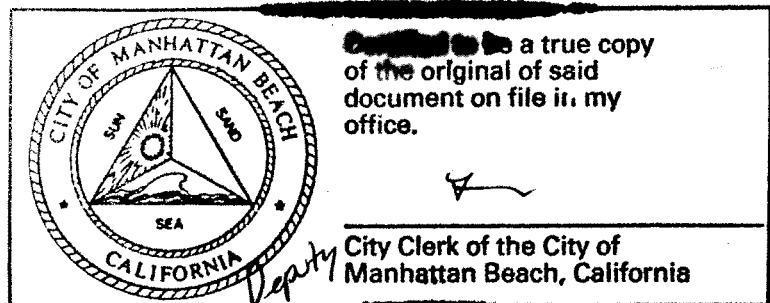
PASSED, APPROVED AND ADOPTED this 19th day of July, 2011.

Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

/s/ Nicholas W. Tell, Jr.  
Mayor, City of Manhattan Beach

ATTEST:

/s/ Liza Tamura  
City Clerk





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ORDINANCE NO. 2151U

AN EXTENSION OF AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

**SECTION 1.** Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.


The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to extend an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

**SECTION 2.** The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance.

**SECTION 3.** Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

**SECTION 4.** Timeline. Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)



Certified to be a true copy of said document on file in my office.

TA

City Clerk of the City of Manhattan Beach

**EXHIBIT B**  
PC Mtg. 8/24/11

**SECTION 5. Ordinance Options.** Staff anticipates exploring the following options to regulate Tattoo Studios:

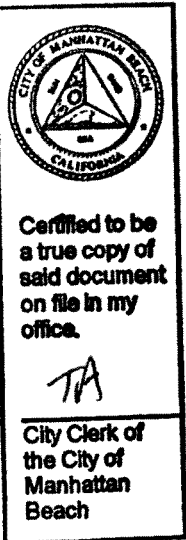
1. Classify Tattoo Studios as a Personal Service which would permit the use in all commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

**SECTION 6. Penalties.** Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

**SECTION 7. Severability.** If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

**SECTION 8. Urgency.** Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall extend Ordinance No. 2148U and be in full force and effect for the minimum time necessary to process the zoning text amendment to accommodate new tattoo studios, or 10 months and 15 days from the date of its adoption, whichever comes first, in accordance with the provisions of California Government Code Section 65858.



1 SECTION 9. Conflicting Laws. For the term of this Ordinance, the provisions of this  
2 Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or  
3 policy.


3 PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of August, 2011.

4 Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.  
5 Noes: None.  
6 Absent: None.  
7 Abstain: None.

7 /s/ Nicholas W. Tell, Jr.  
8 \_\_\_\_\_  
9 Mayor, City of Manhattan Beach

9 ATTEST:

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11 /s/ Liza Tamura  
12 \_\_\_\_\_  
13 City Clerk



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16 **of the original of said**  
17 **document on file in my**  
18 **office.**

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20 **Deputy** City Clerk of the City of  
21 **Manhattan Beach, California**

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# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Tell and Members of the City Council

**THROUGH:** David N. Carmany, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Laurie Jester, Planning Manager  
Esteban Danna, Assistant Planner *ED*  
Christi Hogin, Special Counsel *CH*

**DATE:** August 2, 2011

**SUBJECT:** Consideration of Adoption of an Extension of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

**RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2151U extending a Moratorium on approval of tattoo studios.

**FISCAL IMPLICATION:**

There is no fiscal impact from adoption of this ordinance.

**BACKGROUND:**

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. There are no applications pending for such use at the present time, however the Planning Division has received inquiries from several businesses interested in locating in the City. The Municipal Code does not presently make provision for such use. The necessity to amend the existing Municipal Code to allow tattoo studios makes it prudent to impose a moratorium on such uses until a scheme of regulation appropriate to applicable law can be developed and adopted.

At its July 19, 2011 regular meeting, the City Council adopted Ordinance No. 2148U establishing a 45 day moratorium. The ordinance maintains the status quo by prohibiting the approval of Tattoo Studios in order to give Staff time to develop regulations that will allow the operation of tattoo studios.

**DISCUSSION:**

After the initial 45-day moratorium was granted (through Ordinance No. 2148U), Government Code 65858 permits an extension for up to an additional 22 months and 15 days. In order to have sufficient time to develop a permanent ordinance regulating tattoo studios, Staff is requesting an

**EXHIBIT C**  
PC MH. 8/24/11

extension to the existing moratorium. Body piercing will also be evaluated as requested by the City Council.

Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)

Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all Commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

**CONCLUSION:**

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2151U extending a Moratorium on approval of Tattoo Studios.

Attachments: A. Ordinance No. 2151U  
B. Staff Report and Ordinance No. 2148U dated July 19, 2011

ORDINANCE NO. 2151U

AN EXTENSION OF AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

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The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

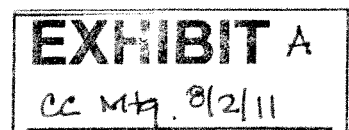
The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to extend an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Timeline. Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)



SECTION 5. Ordinance Options. Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

SECTION 6. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 7. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 8. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for the minimum time necessary to process the zoning text amendment to accommodate new tattoo studios, or 22 months and 15 days from the date of its adoption, whichever comes first, in accordance with the provisions of California Government Code Section 65858.



SECTION 9. Conflicting Laws. For the term of this Ordinance, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of August, 2011.

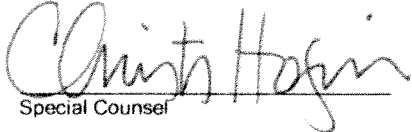
AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor, City of Manhattan Beach

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Special Counsel

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Agenda Item #:



# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Tell and Members of the City Council

**THROUGH:** <sup>DC</sup> David N. Carmany, City Manager

**FROM:** Richard Thompson, Director of Community Development  
 Laurie Jester, Planning Manager <sup>LDJ</sup>  
 Esteban Danna, Assistant Planner <sup>ED</sup>  
 Christi Hogan, Special Counsel

**DATE:** July 19, 2011

**SUBJECT:** Consideration of Adoption of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

### RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2148U establishing a Moratorium on approval of tattoo studios.

### FISCAL IMPLICATION:

There is no fiscal impact from adoption of this ordinance.

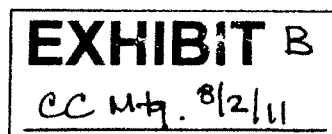
### BACKGROUND:

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. There are no applications pending for such use at the present time, however the Planning Division has received inquiries from several businesses interested in locating in the City. The Municipal Code does not presently make provision for such use. The necessity to amend the existing Municipal Code to allow tattoo studios makes it prudent to impose a moratorium on such uses until a scheme of regulation appropriate to applicable law can be developed and adopted.

### DISCUSSION:

Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance. Manhattan Beach Municipal Code Section 10.08.030 provides that "[a]ny new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Ordinance text amendment...."

Before the City Council may adopt a Zoning Ordinance amendment, the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council. The City Council then conducts a public hearing and may take action on the Zoning Ordinance text amendment. Given notice requirements, under the most ambitious hearings schedule, the soonest



Page 1 of 4

that a zoning text amendment may be considered by the City Council is September or October. Amendment to the Local Coastal Program will also require review and certification by the California Coastal Commission. In order to avoid a violation of the United States Constitution's First Amendment, the City must make every effort to avoid any unreasonable delay in establishing reasonable time, place and manner regulations for tattoo studios.

Until recently, all published court opinions addressing tattoo studios as a land use have concluded that they are not entitled to special protection under the constitution, the way adult businesses or news racks are protected. The Ninth Circuit Court of Appeals recently held in the case of *Johnny Anderson v. City of Hermosa Beach* that the City's total ban on tattoo studios is unconstitutional, and that tattooing is [a] "purely expressive activity fully protected by the First Amendment, and that a total ban on such activity is not a reasonable "time, place, or manner" restriction. The opinion states, "regulation of the time, place, or manner of protected speech must be narrowly tailored to serve the government's legitimate, content-neutral interests but . . . it need not be the least restrictive or least intrusive means of doing so. . . . So long as the means chosen are not *substantially broader than necessary* to achieve the government's interest . . . the regulation will not be invalid simply because a court concludes that the government's interest could be adequately served by some less-speech restrictive alternative." The Ninth Circuit's *Anderson* opinion departs from the assumptions that most cities have relied on in excluding tattoo studio uses and necessitates a zone text amendment.

No applications have been made to the City for a new tattoo studio; however, Staff has received a few telephone and e-mail inquiries indicating interest in establishing such businesses in Manhattan Beach. Hermosa Beach and other cities' regulations will be studied through the Zoning Text Amendment process.

Government Code 65858 permits an initial moratorium for 45 days. Subsequently it may be extended for up to an additional 22 months and 15 days. Passage of a moratorium must be by a four-fifths majority of the legislative body. The ordinance is authorized as an urgency ordinance and goes into effect immediately. In order to have sufficient time to develop a permanent ordinance regulating tattoo studios, Staff will request an extension to the proposed moratorium at the August 2, 2011 regular City Council meeting. The length of the extension will be proposed at said meeting and will be in accordance with all applicable laws. The extension will be a noticed public hearing and will be subject to City Council review and approval.

**ALTERNATIVES:**

- (1) Adopt the interim ordinance and direct Staff to (a) notice a public hearing in accordance with Government Code 65858 to extend the moratorium for the minimum time necessary to process a zoning text amendment to accommodate new tattoo studios in the City and (b) initiate a zoning text amendment which considers which zones such uses are most compatible and whether any additional time, place and manner restrictions are warranted.
- (2) Do not adopt the urgency interim ordinance and instead direct Staff to interpret tattoo studio uses as similar to other personal service uses, such as hair salons, which are allowed as a permitted use in all commercial zones.

Attachments: A. Ordinance No. 2148U

ORDINANCE NO. 2148U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to place an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance or any extension thereof.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 5. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 6. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it is appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its adoption unless extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2011.

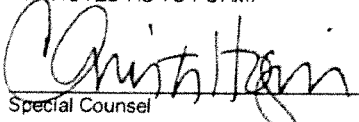
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ABSENT:  
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Mayor, City of Manhattan Beach

ATTEST:

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City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Special Counsel

07/19/11-20. *Andy Cohen Re Community Service*

**Andy Cohen, No Address Provided**, spoke on behalf of the spouses of City Councilmembers, about the tremendous amount of community service that is required for City Councilmembers.

07/19/11-21. *Mayor Pro Tem Powell Re Work Plan Meeting*

Mayor Pro Tem Powell announced that on Friday, July 22, 2011, at 8:30 a.m., in the City Council Chambers, a Work Plan Meeting will be held to prioritize the list of current Work Plan items.

07/19/11-22. *Councilmember Montgomery Re Los Angeles County Sanitation District*

Councilmember Montgomery congratulated Northrup Grumman on being among the top 60 industrial waste providers that have met Los Angeles County Sanitation District's waste water charge requirements for the past 5 years.

07/19/11-23. *Councilmember Lesser Re Volunteers*

Councilmember Lesser acknowledged **Jeanne Jackson** and the **Manhattan Beach Green Belt Restoration Project** volunteers for working with the City to supplement dead and dying plants on the green belt. He encouraged anyone wishing to volunteer or donate plants to contact Jeanne at [jeannejacksongrp@hotmail.com](mailto:jeannejacksongrp@hotmail.com).

#### **AUDIENCE PARTICIPATION**

07/19/11-24. *Ed Caprielian Re Brown Act Training*

**Ed Caprielian, No Address Provided**, voiced his opinion that the Brown Act Training, held prior to the Council meeting, was insufficient; that citizens weren't notified in advance; and that the supposed desire to foster greater openness and transparency is not happening.

#### **PUBLIC HEARINGS**

07/19/11-14. *Consideration of Adoption of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments*

Mayor Tell introduced the subject item and Community Development Director Richard Thompson provided the staff presentation.

Mayor Tell opened the Public Hearing at 7:59 p.m.

There was no public comment on this item.

Mayor Montgomery closed the Public Hearing at 8:00 p.m.

Special Counsel Christi Hogin read aloud the title of Urgency Ordinance No. 2148U.

**MOTION:** Councilmember Montgomery moved to adopt Urgency Ordinance No. 2148U establishing a Moratorium on approval of tattoo studios. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:



Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

**GENERAL BUSINESS**

07/19/11-15. Update From the Ad Hoc City Attorney Selection Subcommittee and Consideration of the Recommended City Attorney Finalists

Mayor Tell introduced the subject item and Councilmember Lesser summarized the selection process and announced that the subcommittee is recommending the firms of **Aleshire & Wynder, LLP.; Colantuono & Levin, PC.; Jenkins & Hogin, LLP.** (Christi Hogin is the City's current Legal Counsel); and **Richards Watson Gershon.** Councilmember Lesser further stated that although these four firms have been selected by the Ad Hoc City Attorney Selection Subcommittee, any Councilmember may add additional firms. He also added that interviews will take place next week and the Council is scheduled to publicly discuss and select the City Attorney at the August 2, 2011 Council meeting which will also include a discussion on cost control data and mechanisms.

Councilmember Howorth commented on the number of public subcommittee meetings; thanked staff for the tremendous amount of time they put in; and acknowledged the cost to the City.

**The following individuals spoke on this item:**

- **Kimberly Hall Barlow, Jones & Mayer**
- **Ed Caprielian, No Address Provided**

Council did not wish to consider any additional firms.

Mayor Tell moved to approve the list of City Attorney finalists as developed by the Ad Hoc City Attorney Selection Subcommittee to be interviewed by the City Council.

Hearing no objection, it was so ordered.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

07/19/11-3. Approve Minutes:

*This item contains minutes of City Council meetings which are presented for approval [(a)] and minutes from City Council subcommittees and from other City commissions and committees [(b) - (d)] which are presented to be received and filed by the Council. Staff recommends that the City Council by motion take action to approve the minutes of the:*

- a) Adjourned Regular and Regular City Council Meeting of July 5, 2011*
- b) Centennial Committee Meeting of June 27, 2011*
- c) Ad Hoc City Attorney Selection Subcommittee Meeting of June 28, 2011*
- d) Ad Hoc City Attorney Selection Subcommittee Meeting of July 7, 2011*

**A member of the audience pulled this item from the Consent Calendar for Council discussion.**



**PUBLIC HEARINGS**

08/02/11-15. Consideration of Adoption of an Extension of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

Mayor Tell introduced the subject item and Community Development Director Richard Thompson provided the staff presentation.

Mayor Tell opened the Public Hearing at 7:15 p.m.

There was no public comment on this item.

Mayor Montgomery closed the Public Hearing at 7:16 p.m.

Special Counsel Christi Hogin read aloud the title of Urgency Ordinance No. 2151U.

**MOTION:** Mayor Pro Tem Powell moved to waive further reading and adopt Urgency Ordinance No. 2151U, as amended extending a Moratorium on approval of tattoo studios. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:

Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.



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**ORDINANCE NO. 10-1313**

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
APPROVING A ZONE TEXT AMENDMENT TO THE MUNICIPAL  
CODE TO ALLOW TATTOO/BODY PIERCING STUDIOS IN C-2 and C-  
3 ZONES (AND ZONES THAT ALLOW C-3 USES)**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Subsection (B) of Section 5.04.200 of Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended by amending Section 1, Classification A, Group 7 to read as follows:

**Group 7:** Barbershops, manicuring, facial massage, beauty parlors, cosmetic skin treatment and establishments where massage services are offered by an individual as an incidental or accessory service and does not occupy more than 25% of the area of the establishment, shall pay an annual license tax and an additional license tax for each operator other than the owner. Tattoo/body piercing studios require compliance with the regulations set forth in **Section 17.26.070.**

**SECTION 2.** Section 17.04.050 of Title 17, Chapter 17.04 of the Hermosa Beach Municipal Code is amended by adding the following definitions to the alphabetical list of commercial land use definitions to read as follows:

“Body piercing” means to puncture, perforate, or penetrate a human body part or tissue with an object, appliance, or instrument for the purpose of placing a foreign object in the perforation to prevent the perforation from closing. This includes, but is not limited to, creating such an opening in the lip, tongue, nose, eyebrow or navel for the purpose of inserting jewelry or other decorations. Body piercing does not include piercing of the ear lobe or outer portion of the ear.

“Permanent make-up” means the application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin. This includes, but is not limited to, permanent or semi-permanent eyeliner or lip color.

1

**EXHIBIT E**  
PC MH. 8/24/11

1 “Tattoo/tattooing” means to insert pigment, ink or dye under the surface of the skin of a  
 2 person by pricking with a needle or otherwise, to permanently change the color or appearance of  
 3 the skin or to produce an indelible mark or figure visible through the skin. Tattooing does not  
 4 include application of permanent make-up that is performed as an incidental service in a beauty  
 5 shop, day spa, or other service or retail establishment.

6 “Tattoo/body piercing studio” means any establishment where tattooing and/or body  
 7 piercing takes place.

8 **SECTION 3.** Section 17.26.030 of Title 17, Chapter 17.26 of the Hermosa Beach  
 9 Municipal Code is amended by adding Tattoo/body piercing studios to the alphabetical table of  
 10 uses permitted in commercial zones to read as follows:

USE	C-1	C-2	C-3	See Section
Tattoo/body piercing studios	-	P	P	17.26.070

18  
 19 **SECTION 4.** A new Section 17.26.070 shall be added to Title 17, Chapter 17.26 of the  
 20 Hermosa Beach Municipal Code to read as follows:

21 **17.26.070 Tattoo/Body Piercing Studios – Standards and Limitations.**

22 Every tattoo/body piercing studio shall be subject to the following in addition to all other  
 23 requirements of law:

24 A. The exterior walls of any establishment in the C-2 zone shall be located more than  
 25 one thousand (1,000) feet from the exterior walls of any other tattoo/body piercing establishment  
 26 and the exterior walls of any establishment in the C-3 zone or zone that allows C-3 uses shall be  
 27 located more than one thousand five hundred (1,500) feet from the exterior walls of any other  
 28 tattoo/body piercing establishment.

1 B. The operator of the tattoo/body piercing establishment shall obtain and maintain in  
2 compliance all permits required by the County of Los Angeles, Department of Public Health.

3 C. Tattoo/body piercing establishments shall not operate between the hours of 10:00  
4 p.m. and 10:00 a.m.

5 D. Live animals, except for service animals, shall not be allowed on the premises.

6 E. Once established, tattoo/body piercing establishments shall not be permitted to  
7 expand into another tenant space or building or otherwise on the site or any contiguous site, or to  
8 establish additional locations within the city.

9 F. Temporary or mobile establishments or events are not authorized by this section.

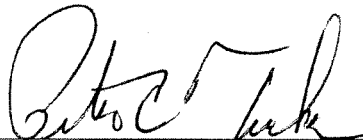
10 **SECTION 5.** Prior to the expiration of fifteen (15) days after the date of its adoption, the  
11 City Clerk shall cause this Ordinance to be published in the Easy Reader, a weekly newspaper of  
12 general circulation published and circulated, in the City of Hermosa Beach in the manner provided  
13 by law.

14 **SECTION 6.** The City Clerk shall certify to the passage and adoption of this Ordinance,  
15 shall enter the same in the book of original Ordinances of said city, and shall make minutes of the  
16 passage and adoption thereof in the records of the proceedings of the City Council at which the  
17 same is passed and adopted.

18 **SECTION 7.** This Ordinance shall become effective and be in full force and effect from  
19 and after thirty (30) days of its final passage and adoption.

20 **PASSED, APPROVED and ADOPTED** this 9th of November 2010 by the following vote:

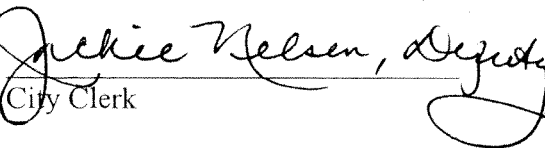
21 AYES: Duclos, Fishman, Mayor Tucker  
22 NOES: Bobko, DiVirgilio  
23 ABSENT: None  
24 ABSTAIN: None

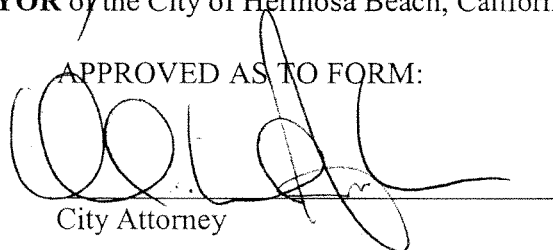


25 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

26 ATTEST:

APPROVED AS TO FORM:

27   
28 City Clerk

  
City Attorney

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Ordinance No. 10-1313 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a regular meeting held at the regular meeting place thereof on the 9th of November, 2010, and said ordinance will be published in the Easy Reader newspaper on November 18, 2010.

The vote was as follows:

AYES: Duclos, Fishman, and Mayor Tucker

NQES: Bobko, DiVirgilio

ABSENT: None

ABSTAIN: None

DATED: November 9, 2010

  
City Clerk



NOTICE OF A PUBLIC HEARING  
BEFORE THE PLANNING COMMISSION  
OF THE CITY OF MANHATTAN BEACH  
ZONING CODE AMENDMENT (TITLE 10) AND  
LOCAL COASTAL PROGRAM AMENDMENT TO  
ESTABLISH REGULATIONS FOR TATTOO STUDIOS

A public hearing will be held before the Planning Commission for the project described below.

- Applicant: City of Manhattan Beach- City Council 2011-12 Work Plan Item—Tattoo Ordinance
- Property Location: Citywide
- Project Description: Consideration of amendment to Title 10 Planning and Zoning of the Manhattan Beach Municipal Code (MBMC) and the City's Local Coastal Program to establish regulations for Tattoo Studios within the City.
- Environmental Determination: Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, portions of the subject amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (b)(3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.
- Project Planner: Esteban Danna, Assistant Planner (310)-802-5514, edanna@citymb.info
- Public Hearing: **Wednesday August 24 and September 28, 2011 at 6:30 p.m.  
Council Chambers, City Hall, 1400 Highland Avenue**
- Further Information: Proponents and opponents may be heard at that time. For further information contact the project Planner. Project files are available for review at the Community Development Department at City Hall. A Staff Report will be available for review at the Civic Center Library on Saturday, August 20 and at the Community Development Department on Monday, August 22, or on the City website (<http://www.citymb.info>) on Friday August 19 after 5:00 pm.
- Public Comments: Oral and written testimony will be received during the public hearing. Anyone wishing to provide written comments for inclusion in the Staff Report must do so by August 17, 2011. Comments received after this date will be forwarded to the Planning Commission at or prior to the public hearing.

*If you challenge the proposed actions in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in correspondence delivered to the Planning Commission at, or prior to, the public hearing.*

RICHARD THOMPSON  
Director of Community Development

