



## CITY OF COMMERCE STAFF REPORT

**TO:** The Honorable City Council

**Item No.** \_\_\_\_\_

**FROM:** City Manager

**SUBJECT:** An Ordinance, extending interim Ordinance No. 748; Urgency Citywide Ordinance to Adopt a Moratorium Ordinance Prohibiting the Approval, Expansion, Intensification, or Relocation of any New or Existing Funeral Services and Crematory Establishments for 10 Months and 15 Days

**MEETING DATE:** March 2, 2020

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### **RECOMMENDED ACTION:**

1. Determine that implementation and adoption of the recommended interim ordinance will have no significant effect on the environment and that, therefore the interim ordinance is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061, subdivision (b) (3) of Title 14 of the California Code of Regulations. The interim ordinance is also exempt under sections 15378 and 15183.
2. Approve the interim ordinance, thereby extending the moratorium prohibiting the approval, expansion, intensification, or relocation of any new or existing funeral services and crematory establishments, for an additional 10 months and 15 days, or no later than January 21, 2021.
3. Direct the City Manager and staff to continue evaluating crematory and funeral services land uses to determine if this land use is compatible with the City of Commerce.

### **BACKGROUND:**

Government Code section 65858 authorizes the City Council to approve an interim ordinance imposing a moratorium on certain land uses without following the procedures otherwise required for the adoption of a zoning ordinance where the interim ordinance is justified "to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body,

planning commission or the planning department is considering or studying or intends to study within a reasonable time.” (Gov. Code, § 65858, subd. (a).)

On January 21, 2020, the City Council passed interim Ordinance No. 748 entitled: An Urgency Ordinance of the City Council of the City of Commerce, California, Adopting a Citywide Moratorium Prohibiting the Approval, Expansion, Intensification, or the Relocation of Any New or Existing Funeral Services and Crematory Establishments and Adoption of Permanent Zoning Regulations for Such Use and Declaring the Urgency Thereof. In addition to findings set forth in the recitals, interim Ordinance No. 748 made the following legislative findings:

- A. The Council was provided information upon which the findings and actions set forth in this ordinance is based, including staff reports, public testimony, and documentary evidence at the January 21, 2020 and February 18, 2020 City Council meetings.
- B. Allowing funeral services or crematory land uses within proximity to both commercial and residential areas of the City may have the potential of being inconsistent with surrounding existing and future land uses.
- C. The City needs an interim ordinance to study the land use to determine if funeral services and crematory land uses are consistent with both existing and recommended General Plans as well as future zoning regulations.
- D. If this interim moratorium were not imposed, the public health, safety, and welfare would be threatened because the zoning code could allow for a use that will be incompatible with existing and future land uses within the City.
- E. The City Council is concerned that the current zoning ordinance, as written, may not be compatible with the purpose and intent of the City’s General Plan and Zoning Code, which is intended to protect public health, safety, comfort, and welfare and to ensure that the growth and development of the city is orderly and provides maximum benefit to its residents by establishing land use districts and regulations which prevent the misuse or abuse of the land. As such, the City Council wishes to consider proper regulations to address the circumstances giving rise to this interim ordinance, including, but not limited to amendments to the General Plan and the Commerce Municipal Code.
- F. This interim ordinance is consistent with the City’s General Plan, Community Development Policy 1.3, which states that the City of Commerce will continue to implement specific standards for new commercial developments located adjacent to residential neighborhoods in order to ensure that adequate buffers are provided.

Based on the legislative findings and recommendation of staff, a unanimous approval by City Councilmembers were taken to pass the interim ordinance.

## **ANALYSIS:**

On February 18, 2020, the Director of Economic Development and Planning issued to the City Council a written report describing the measures taken to alleviate the conditions which led to the adoption of interim Ordinance No. 748. In its report, information detailing the initial work that was undertaken was outlined. These included, but were not limited to; conducting research regarding measures enacted by numerous cities and counties to regulate these uses; review of other regulatory agencies policies and procedures to understand how these uses are regulated; evaluated the General Plan to determine the extent to which the current policies are inconsistent in addressing these uses.

As part of its conclusion, staff requested for additional time to study the negative direct and secondary impacts associated with Funeral Service and Crematory land uses and verify or determine whether such uses should be allowed in the City, including the consideration of appropriate regulations (if applicable). This intensive process is still ongoing. The City has determined that a permanent solution is necessary and therefore requested the additional time.

As discussed in the January 21, 2020 and February 18, 2020 reports respectively, the facts giving rise to interim Ordinance No. 748. are still present and valid at this time. Staff will persist in its studies in order to continue to seek solutions to alleviate the conditions which led to the moratorium. Given staff's current workload and the processes required to perform the above tasks, as well as the need to review and evaluate the various legal and legislative options available, staff is not ready at this time to submit a specific proposal to the Council. In order to have adequate time to fashion and propose appropriate regulations, and to ensure that the current and immediate threat to the public safety, health and welfare continues to be forestalled until adequate regulations are in place, staff recommends extending the moratorium for an additional 10 months and fifteen days (January 21, 2021).

The extension of interim Ordinance No. 748 requires approval by a 4/5 vote of the City Council.

## **CEQA**

The proposed ordinance extending the interim urgency ordinance is not subject to the California Environmental Quality Act (Public Resources Code §21000, et seq.) ("CEQA") because it "will not result in a direct or reasonably foreseeable indirect physical change in the environment" and is not a "project" under CEQA section 15378. CEQA section 15060(c) (2)-(3). The proposed ordinance is exempt from CEQA because "it can be seen with certainty that there is no possibility that the activity in question may have a significant

effect on the environment.” CEQA section 15061(b) (3). Additionally, the proposed ordinance is a regulatory action taken by the City pursuant to its police power and in accordance with Government Code section 65858 to assure maintenance, enhancement and protection of the environment pending the evaluation and adoption of potential local legislation, regulation, and policies, and is therefore exempt from CEQA. CEQA section 15308.

#### **RELATIONSHIP TO STRATEGIC GOALS:**

This item relates to the Strategic Action Plan’s Goal of: Economic Growth - Guiding Principles 1 to “Create and strengthen our identity, as a community that promotes opportunity and success for business that meets the strategic focus for economic growth, will have a positive impact on the quality of life and the City’s financial sustainability,” and 3 “Support a long-range planning vision through the City’s General Plan, zoning ordinance, and related land use planning documents that incorporate community and stakeholder input and provide a compass for strategic economic growth, infrastructure investments and city fiscal planning.”

#### **ALTERNATIVES:**

1. Approve Staff recommendation;
2. Deny Staff recommendation; or
3. Provide Staff with further direction.

#### **FISCAL IMPACT:**

There is no fiscal impact from this activity.

Recommended/Prepared by Jose Daniel Jimenez, Director of Economic Development and Planning

Reviewed By: Mark Murray, Deputy City Attorney

Approved as to Form: Noel Tapia, City Attorney

Respectfully submitted: Edgar P. Cisneros, City Manager