



Staff Report

TO: Mayor, and City Council Members
FROM: Carole Kendrick, Senior Planner
DATE: March 3, 2020
SUBJECT: **Public Hearing and Consideration of An Interim Urgency Ordinance for a Temporary Moratorium Prohibiting Tire Sales and Tire Repair Establishments**

Background and Analysis:

The City is in the process of completing a general plan update. As part of this process, goals and policies are being revised, a downtown specific plan and zoning consistency analysis and update is also being prepared. Through the general plan update, downtown specific plan and zoning analysis, staff has determined there are some uses that do not support the intent of the current goals and policies and may conflict with potential land use changes as part of the update process.

The current zoning code does not expressly address tire sales in the zoning matrix, however the definitions under Section 17.14.030 include tire sales under “vehicle repair garage” and “vehicle service.” The full definitions for both are provided below.

Vehicle Repair Garage. Any site and improvements used for the repair and maintenance of automobiles, motorcycles, light trucks (having a rating of less than 10,001 pounds, an unladen weight of less than 6,001 pounds, and equipped with an open box-type bed less than nine feet in length), or other similar passenger vehicles licensed by the State Department of Motor Vehicles. This classification shall not include the repair or maintenance of motor homes or commercial vehicles as defined in Section 3-7.901 of this Zoning Code. "Motor vehicle repair garage" shall be construed broadly to include the place where the following types of commonly-known garage or shop activities occur: tune-up and muffler work, parts and tire sales and installation, wheel and brake work, engine and transmission overhaul, and installation of car alarms and car stereos. "Motor vehicle repair garage" shall not include automobile wrecking, dismantling, or salvage, motor vehicle body and fender shops, or *tire* retreading or recapping.

Vehicle, Service. A business establishment primarily engaged in the retail sale of vehicle fuel station and lubricants. This classification includes facilities having service bays for vehicle service and repair. Such service and repair may include the sale of tires, batteries, and other parts and products related to the operation of a motor vehicle; minor tune-up; lubrication and parts replacement; non-mechanical car-washing, polishing, and waxing; and other light work related to preventive maintenance and upkeep, but may not include maintenance and repair of large trucks or other large vehicles, or body and fender work on any vehicles.

Previous requests for tire sales and/or tire repair uses were allowed under vehicle repair or service or standard retail sales. However, tire sales and tire repair typically generate noise impacts, aesthetic concerns, fire safety issues and ongoing or frequent outdoor displays. Due to the over-concentration of tire sales and tire repair businesses within the City of Beaumont, particularly in the downtown area, staff is requesting City Council establish a temporary moratorium in order to allow staff adequate time to amend the zoning code to list these uses specifically, determine if a conditional use permit should be required, and create development standards to address impacts associated with tire sales and tire repair uses.

The proliferation of tire sales and tire repair establishments do not support the intent of the current goals and policies of the existing general plan that include:

- Community Development Goal 3 – The City of Beaumont will maintain and, where appropriate, expand the City’s commercial base.
 - Community Development Element Policy 12 – The City of Beaumont will continue to promote the development of larger, more efficient, commercial retail centers as opposed to “strip commercial” along the City’s traffic corridors.
- Community Development Goal 4 - The City of Beaumont will promote the expansion of industrial and other employment generating land uses.
 - Community Development Element Policy 15 - The City of Beaumont will continue to promote the maintenance and preservation of industrial activities and business that contribute to the City’s economic and employment base.
 - Community Development Element Policy 16 - The City of Beaumont will encourage the continued expansion of the City’s industrial districts to accommodate economic development and growth.

- Community Development Element Policy 17 - The City of Beaumont will promote the development of modern and attractive business activities that will enhance the City's economic well-being.
- Safety Goal 6 – The City of Beaumont will strive to control the adverse effects of noise in the environment.
 - Safety Element Policy 24 – The City of Beaumont will protect public health and welfare by eliminating existing noise problems and by prevent significant degradation of the future acoustic environment.
 - Safety Element Policy 25 – The City of Beaumont will incorporate noise considerations into land use planning decisions.

There are approximately 12 business licenses for tire sales and tire repair businesses, eight (8) of which are in the downtown. A downtown specific plan is currently being prepared in conjunction with a general plan update. In the draft specific plan, the downtown area will include a variety of use areas. The draft downtown specific plan is proposing tire sales as a permitted use in the Sixth Street corridor area, which has four (4) existing tire businesses. There are an additional four (4) existing tire businesses currently operating in other downtowns areas where, in the future, they will not be a permitted use and will become non-conforming if the downtown specific plan is adopted as currently proposed.

In an effort to maintain consistency with the current and future goals, policies and land uses, and allow time to address safety impacts, staff would like time to evaluate tire related uses to ensure that future development will be cited appropriately and developed with appropriate standards in place.

At the direction of the City Council, at their February 4, 2020, staff has been directed to propose a 45-day moratorium to restrict the processing of entitlements or building permits to construct any and all tires sales and tire repair establishments.

Staff is recommending City Council approve an interim urgency ordinance for a moratorium on tire sales and tire repair establishments. This ordinance will put a hold on the issuance of any entitlements or permits for new applications which do not have a complete application after the effective date of the ordinance.

Fiscal Impact:

Staff time to prepare this report and legal counsel consultation is approximately \$500.

Recommended Action:

Hold a Public Hearing, and
Waive the full reading and adopt by title only, "An Interim Urgency Ordinance of
The City of Beaumont, Enacting A Temporary Moratorium Prohibiting Tire Sales
and Tire Repair Establishments, Pursuant to Government Code Section 65858."

Attachments:

- A. Interim Urgency Ordinance

ORDINANCE NO. _____

**AN INTERIM URGENCY ORDINANCE OF THE CITY OF
BEAUMONT, ENACTING A TEMPORARY
MORATORIUM PROHIBITING TIRE SALES AND TIRE
REPAIR ESTABLISHMENTS, PURSUANT TO
GOVERNMENT CODE SECTION 65858.**

**THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN
AS FOLLOWS:**

The City Council finds and declares as follows:

A. Government Code Section 65858(a) allows a city to adopt effective immediately, as an urgency measure, an interim ordinance for the immediate preservation of the public health or safety without following the procedures otherwise required prior to the adoption of a zoning ordinance.

B. Such an urgency measure requires a four-fifths vote (4 votes) of the City Council for adoption and it shall be of no further force and effect forty-five (45) days from its date of adoption unless otherwise extended pursuant to Government Code Section 65858(a).

C. As used in this ordinance:

i. "Tire Sales and Tire Repair Establishments" means a business that is primarily involved in the sale of tires, tire installations and/or the repair of tires.

D. The City of Beaumont currently has approximately 11 active City business licenses for tire related businesses, not including businesses that provide tires sales and service ancillary to their primary use.

E. Tire Sales and Tire Repair Establishments are located throughout the City and have been allowed under the City's Zoning Code to operate in the Commercial General (CG), Community Commercial (CC), Manufacturing (M) and Commercial Manufacturing Zones as a permitted use under the Automobile Service Station designation and the definition of Vehicle Repair Garage and Vehicle Service under Section 17.14.030 of the Beaumont Municipal Code.

F. The City of Beaumont is in the process of updating the General Plan and zoning ordinances, which envisions a City structure that enhances the quality of life of the residents, enhances the health safety and welfare of the community, meets the community's vision for

the future, and connects new growth areas together with established Beaumont neighborhoods which will be in conflict with the current use by right allowance for Tire Sales and Tire Repair Establishments.

G. Tire Sales and Tire Repair Establishments do not promote the City's goals of achieving either aesthetic or fiscal health of the community as they are associated with visual blight, tire waste, contamination, clutter, refuse and inoperable vehicles on site, do not promote the health, welfare and safety of the community, do not foster economic growth, do not promote the City's heritage or an environmentally sustainable community, and the City is becoming increasingly concerned about the over-saturation of these types of facilities in the City and the increased interest in locating even more of these facilities within its limits many of which are associated with noise, nuisances and the sale of illegal drugs and related criminal activity.

H. For the reasons set forth above, this ordinance is declared by the City Council to be necessary for preserving the public welfare, health, and safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and urgency.

I. The City Council now desires to adopt a moratorium that prohibits tire sales and tire repair establishments from locating in the City of Beaumont.

J. This urgency ordinance is adopted pursuant to the requirements of Government Code Section 65858 and shall be in effect for 45 days unless further extended by the City Council of the City of Beaumont.

K. Adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15060(c)(2) (no significant environmental impact).

SECTION 1. The City currently has an over-concentration of Tire Sales and Tire Repair Establishments within its borders and has recently seen an increase in inquires to locate even more of these facilities within the City.

SECTION 2. Findings.

A. The Community Development Element of the City's General Plan includes specific goals and policies that aim to minimize land use conflicts and develop a logical pattern of land use, to protect the health, safety and welfare of the community as well as

to upgrade the City's appearance and establish a strong economic base. Specifically, goals of the City's General Plan provide for 1) to maintain and, where appropriate expand the City's commercial base (Goal 3), 2) to promote the expansion of industrial and other employment generating land uses (Goal 4), 3) to continue to promote the maintenance and preservation of industrial activities and business that contribute to the City's economic and employment base (Community Development Element Policy 15), 4) to encourage the continued expansion of the City's industrial districts to accommodate economic development and growth (Community Development Element Policy 16), and 5) to promote development of modern and attractive business activities that will enhance the City's economic well-being. The City Council finds that the large number of existing Tire Sales and Tire Repair Establishments and the potential for additional facilities is inconsistent with the existing General Plan goals of economic growth and expectations for development.

B. The Safety Element of the City's General Plan includes specific goals and policies that identifies health and safety issues that need to be considered in future planning and development. Specifically, goals of the City's General Plan strive to control the adverse effects of noise on the environment (Goal 6), to protect public health and welfare by eliminating existing noise problems and by preventing significant degradation of the future acoustic environment (Safety Element Policy 24), and to incorporate noise considerations into land use planning decisions (Safety Element Policy 25). The City Council finds that Tire Sales and Tire Repair Establishments as permitted uses do not provide staff the ability to take noise impacts into consideration and incorporate measures to reduce noise impacts such as noise walls, berms, extra insulation, sound proofing, and double-paned windows. The City Council finds that Tire Sales and Tire Repair Establishments as permitted uses do not provide staff the ability to take public health safety and welfare impacts into consideration and incorporate measures to mitigate the likelihood of visual blight, nuisance and criminal activity occurring on the premises.

C. The City of Beaumont is a small city. Due to its small size, the proliferation of Tire Sales and Tire Repair Establishments has the potential to adversely affect the City's economic and aesthetic environments by over-saturating the City with Tire Sales and

Tire Repair Establishments rather than retail, commercial, manufacturing, and industrial uses that the City is endeavoring to promote.

D. The large number of Tire Sales and Tire Repair Establishments within and around the City of Beaumont contribute to an overall negative aesthetic image and do not promote economic development.

E. Adoption of a moratorium on Tire Sales and Tire Repair Establishments will provide the City with an opportunity to review the proposed General Plan, Zoning Code and Economic Development Strategic Plan and make revisions in order to regulate the establishment of Tire Sales and Tire Repair Establishments and prevent the current over-proliferation of Tire Sales and Tire Repair Establishments in the City.

F. Due to the City's need to study and review the proposed General Plan, Zoning Code and Economic Development Strategic Plan, it is urgent that the City study and evaluate options available to it regarding regulation of Tire Sales and Tire Repair Establishments to prevent the adverse impacts that may result from continued approvals of Tire Sales and Tire Repair Establishments in the City.

G. Based on the above findings and all evidence in the record, there is a current and immediate threat to the public health, safety, and welfare, in that the approval of use permits, variance, building permits, or any other applicable Tire Sales and Tire Repair Establishments permits or entitlements would result in a threat to public health, safety, or welfare. It is therefore needed to enact an urgency interim ordinance establishing a moratorium on all new Tire Sales and Tire Repair Establishments within the City of Beaumont. It is the intent of the City Council that this Ordinance take effect immediately pursuant to Section 65858 of the Government Code.

SECTION 3. Applicability. Based on the facts and findings set forth in the recitals and Section 2 of this Ordinance, the City of Beaumont hereby establishes a moratorium on the establishment of Tire Sales and Tire Repair Establishments anywhere in the City of Beaumont. No application for a building permit, business permit, conditional use permit, or any entitlement for the establishment of a new Tire Sales and/or Tire Repair Establishments shall be processed or approved during the moratorium established by this Ordinance.

SECTION 4. Moratorium Term. This Ordinance shall expire, and the moratorium established herein shall terminate, 45 days after the date of its adoption unless extended by the

City Council, at a regularly noticed public hearing, pursuant to California Government Code Section 65858. The City Council intends to terminate this moratorium as soon as reasonably feasible within a timeframe to allow the adoption of the updated General Plan and zoning code provisions with respect to Tire Sales and Tire Repair Establishments, to the extent reasonably advisable by staff following its study. Notwithstanding the foregoing, City staff may deny any application for a permit which prohibited from being issued under this ordinance.

SECTION 5. Report. The City Manager or his designee is authorized and directed to prepare and issue, on behalf of the City Council, a written report describing the measures taken by the City to alleviate the conditions which have led to the adoption of this ordinance, at least ten (10) days prior to the expiration of this ordinance. A copy of the same shall be subsequently provided to the City Council for review.

SECTION 6. CEQA Review. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections **15060(c)(2)** [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment], 15060(c)(3) [the activity is not a project as defined by CEQA], and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. These findings are premised on the fact that the adoption of this urgency interim ordinance will maintain existing environmental conditions arising from the City's current land use regulations without significant change or alteration. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

SECTION 7. No Liability. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of BEAUMONT, or any official, employee or agent thereof.

SECTION 8. Pending Actions. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of the City of any character be lost, impaired or affected by this ordinance.

SECTION 9. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any

reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Beaumont hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 10. Construction. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Beaumont Municipal Code as amended by this ordinance are substantially the same as provisions in the Beaumont Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 11. Urgency; Effective Date; Duration and Publication.

This ordinance is adopted by the City Council pursuant to the California Constitution, article XI, Section 7 and Government Code section 65858 by a four-fifths (4/5) or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in **Section 2** above. This ordinance shall expire and be of no further force or effect 45 days after its adoption, unless it is extended pursuant to Government Code Section 65858. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code Section 36933(c)(1) and a summary shall be published once in the Press Enterprise, a newspaper printed and published in the County of Riverside and distributed in the City of BEAUMONT, State of California, together with the names of the Council members voting for and against the same.

AYES:

NOES:

ABSENT:

ABSTAIN:

Rey Santos, Mayor

Attest: _____
Deputy City Clerk

Approved as to form:

John O. Pinkney, City Attorney