

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 03/13/06		Item Number: <u>A-5</u>	
AGENDA ITEM: Discussion of Options for Regulating Smoking in Public Parks.			
Contact Person/Dept.: Heather Iker/City Attorney		Phone Number: (310) 253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒	Attachments: ☒
Public Notification: Published in Culver City News on March 2, 2006 (Attachment 1); Via e-mail on February 28, 2006: County of Los Angeles Department of Health Services; Via e-mail on March 8, 2006: Master Notification List (03/09/06); Parks and Recreation Commission.			
Department Approval: Carol Schwab, City Attorney (by H. Iker 03/07/06)		CAO Approval: Martin R. Cole for Jerry B. Fulwood (03/09/06)	
City Controller Approval:			

RECOMMENDATION:

That the City Council discuss options for regulating smoking in public parks and provide direction to staff.

BACKGROUND:

Over the past few years, the City has been reviewing its park regulations to determine whether any revisions or additions to the Culver City Municipal Code ("CCMC") are appropriate to further ensure the public's enjoyment of the City's parks. During this process, there has been discussion on the issue of smoking in the City's parks in light of current State law, which prohibits smoking within 25 feet of a playground or tot lot sandbox area (Health and Safety Code § 104495 – Attachment 2).

At the City Council's direction, this issue was presented to the Parks and Recreation Commission for discussion at its meeting of May 4, 2004. The options that were presented to the Commission for consideration and recommendation to the Council included: 1) enforcement of the State law only; 2) adoption of stricter regulations (i.e. increasing the distance within which smoking is prohibited, imposing stricter penalties, etc.); and 3) adoption of a total ban on smoking in the City's parks. After discussion of the issue, there was a motion to recommend a total ban on smoking in the parks, which failed by a 3-2 vote (Commissioners Cooper, Deen and Alexander dissenting). Subsequently, the Commission voted in favor of recommending that the

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City only enforce the current State law and not impose additional restrictions (3-2, Commissioners James and Shapiro dissenting). A copy of the minutes relating to this item is included as Attachment 3.

This issue is now before the City Council for discussion. Should the Council recommend imposing additional smoking restrictions, its recommendations will be incorporated into an ordinance and brought back for consideration.

DISCUSSION:

Currently, CCMC provisions do not include any prohibitions or restrictions relating to smoking in public parks. However, State law (Health and Safety Code § 104495) does prohibit smoking within 25 feet of a playground or tot lot sandbox area. In considering whether to amend the CCMC to add smoking regulations enforceable within the City's parks, the City has the following options: 1) solely enforce current State law; 2) adopt stricter regulations (i.e. increase the distance from tot lots within which smoking is prohibited, impose stricter penalties, etc.); and 3) ban smoking in parks altogether.

Staff has looked at various cities to see if they have adopted regulations pertaining to smoking in public parks. Several cities, including El Monte, Fresno, Long Beach, Pasadena, San Francisco and Santa Monica, have established a complete prohibition against smoking in public parks. The cities of El Segundo, Huntington Beach, Laguna Beach, Long Beach, Los Angeles, Malibu, Manhattan Beach, Newport Beach, San Clemente and Santa Monica have banned smoking on beaches. Many of these cities, including Huntington Beach, Laguna Beach, Long Beach, Malibu, Newport Beach, Pasadena, San Clemente, San Francisco and Santa Monica have also banned smoking at other public recreation areas such as piers, bike paths and recreation centers.

Survey of Cities' Smoking Prohibitions

	Parks	Beaches	Other Areas
El Monte	X		
El Segundo		X	
Fresno	X		
Huntington Beach		X	Pier and pier plaza.
Laguna Beach		X	Beach access ways.
Long Beach	X	X	Bike paths and launch ramps.

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Los Angeles		X	
Malibu		X	Pier.
Manhattan Beach		X	
Newport Beach		X	Piers and other waterfront areas.
Pasadena	X		Playgrounds and recreation centers.
San Clemente		X	Pier and walkways and strands adjoining beach areas.
San Francisco	X		Squares, gardens, sports or playing fields, piers and other areas used for recreational purposes.
Santa Monica	X	X	Pier and outdoor service areas.

(See Attachment 4¹ for detailed information relating to these regulations.)

OPTIONS:

1. Enforce Current State Law.

Health and Safety Code § 104495 prohibits smoking, or the disposal of any tobacco-related waste, within 25 feet of any playground or tot lot sandbox area (excluding public sidewalks located within this radius). A violation of this section is deemed an infraction and punishable by a fine of \$250.

2. Stricter Regulations Pertaining to Tot Lot Areas.

The City has the authority to adopt regulations that are more restrictive than Health and Safety Code § 104495 (see subdivision “h”) and to prohibit smoking in many areas that are not covered by State or Federal law. Further, the courts have held that regulating smoking to protect the public’s health is a valid exercise of a city’s police power. One option that may be considered is expanding the “smoke free zone” surrounding tot lots (i.e. within 50 feet, 100 feet, etc.). Another option to consider is imposing stricter penalties and/or fines. The City could establish a larger fine, or deem a violation of the law a misdemeanor, or both.

¹ Provided courtesy of County of Los Angeles Department of Health Services Tobacco Control & Prevention Program

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3. Complete Prohibition

The City also has the authority, as discussed above, to adopt a total ban on smoking within its public parks. Several cities (El Monte, Fresno, Long Beach, Pasadena, San Francisco and Santa Monica) have adopted such prohibitions.

ENFORCEMENT:

In pursuing any of the above-listed options, the issue of enforcement should also be considered. Enforcement of any of the regulations discussed may be limited due to lack of City resources. Should the Council establish additional regulations, it may want to consider taking steps to encourage and promote self-regulation and compliance (i.e. clear, conspicuously posted “no smoking” signs; providing the public with a right of private civil action).

ADDITIONAL RESOURCES:

A representative(s) from the Los Angeles County Department of Health Services Tobacco Prevention Program will be present at the City Council meeting to provide additional information and answer questions, if necessary. City staff will also be available for questions.

FISCAL ANALYSIS:

There is no fiscal impact for this agenda item. However, any future adoption of additional regulations restricting or prohibiting smoking in public parks may require increased enforcement activity by City staff, particularly the Police Department. These costs cannot be easily quantified. In addition, there would be a cost for the installation of adequate signage.

ATTACHMENTS:

1. Public notification
2. Health and Safety Code § 104495
3. Excerpt from minutes of October 4, 2004 Parks and Recreation Commission meeting
4. Regulations of survey cities

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MOTION:

That the City Council:

Discuss options for regulating smoking in public parks and provide direction to staff.