

MEETING DATE 03/13/06
AGENDA ITEM Discussion of Options for Regulating Smoking in Public Parks

ATTACHMENTS

		<u>Pages</u>
1	Public notification	1
2	Health and Safety Code § 104495	2-3
3	Excerpt from minutes of October 4, 2004 Parks and Recreation Commission meeting	4-6
4	Regulations of survey cities	7-15



CAROL A. SCHWAB
City Attorney

OFFICE OF THE CITY ATTORNEY

(310) 253 5660
FAX (310) 253 5664

CITY OF CULVER CITY

9770 CULVER BOULEVARD CULVER CITY CALIFORNIA 90232 0507

NOTICE OF CULVER CITY CITY COUNCIL MEETING

REGARDING DISCUSSION OF OPTIONS FOR REGULATING SMOKING IN PUBLIC PARKS

You are hereby notified that the following item will be considered by the City Council at its meeting on **Monday, March 13, 2006**

Discussion of Options for Regulating Smoking in Public Parks

The item will be discussed during the regular meeting of the City Council which will convene at 7 00 p m and will be held in the Mike Balkman Council Chambers at City Hall 9770 Culver Boulevard which is accessible to disabled persons. Anyone wishing to address the City Council in person on this item may do so at the time of the meeting by completing a speaker's card and submitting it to the City Clerk before the meeting commences. Anyone who is unable to attend the meeting but who wishes to provide the City Council with written input or comment may do so by any of the following means BEFORE 5 30 p m on March 13 2006

- 1 By LETTER to the City Clerk City of Culver City 9770 Culver Blvd Culver City CA 90232
- 2 By FAX to the City Clerk at 310 253 5830 or
- 3 By E MAIL to cityclerk@culvercity.org

The City Council Agenda Item Report will be available for viewing on the City's website on or after March 8 2006 at www.culvercity.org or at the City Clerk's Office or the Julian Dixon Library 4975 Overland Avenue Culver City.

If you have any questions regarding this matter please call Heather Iker Deputy City Attorney at (310) 253 5660

ATTACHMENT 2

HEALTH AND SAFETY CODE § 104495

Definitions, smoking near playground and sandbox areas, punishment, applicability of section

(a) For the purposes of this section, the following definitions shall govern

(1) "Playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public or private school grounds, or on city, county, or state park grounds

(2) "Tot lot sandbox area" means a designated play area within a public park for the use by children under five years of age. Where the area is not contained by a fence, the boundary of a tot lot sandbox area shall be defined by the edge of the resilient surface of safety material, such as concrete or wood, or any other material surrounding the tot lot sandbox area

(3) "Public park" includes a park operated by a public agency

(4) "Smoke or smoking" means the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, tobacco, or any other weed or plant

(5) "Cigarette" means the same as defined in Section 104556

(6) "Cigar" means the same as defined in Section 104550

(b) No person shall smoke a cigarette, cigar, or other tobacco-related product within 25 feet of any playground or tot lot sandbox area

(c) No person shall dispose of cigarette butts, cigar butts, or any other tobacco-related waste within 25 feet of a playground or a tot lot sandbox area

(d) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this section

(e) Any person who violates this section is guilty of an infraction and shall be punished by a fine of two hundred fifty dollars (\$250) for each violation of this section. Punishment under this section shall not preclude punishment pursuant to Section 13002, Section 374.4 of the Penal Code, or any other provision of law proscribing the act of littering

(f) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to private property

(g) The prohibitions contained in subdivisions (b) and (c) shall not apply to a public sidewalk located within 25 feet of a playground or a tot lot sandbox area

(h) This section shall not preempt the authority of any county, city, or city and county to regulate smoking around playgrounds or tot lot sandbox areas. Any county, city, or city and county may enforce any ordinance adopted prior to January 1, 2002, or may adopt and enforce new regulations that are more restrictive than this section, on and after January 1, 2002

**Item #6b
7 10 p m**

Presentation of "Recipes for Life" Videotape of the Senior Center Nutrition Program

Renee Feiger, Senior and Social Services Manager, spoke about the Senior Center's new partnership with the City of Santa Monica's CITY TV for a 5-series cable television segment demonstrating how to prepare a favorite recipe. The show entitled "Recipes for Life" is hosted by Clark Dikeman, Senior Center Nutrition Director, and features a guest senior cook from the community.

Ms. Feiger was joined by Mr. Dikeman and Barbara Silverstein, member of the Senior Center Board of Directors, as they shared a videotaped segment of "Recipes for Life" with Mrs. Silverstein as the guest cook demonstrating the preparation of matzo balls.

Following the viewing of the videotape, Mrs. Silverstein addressed the Commission and briefly spoke about the need for technical support in the Center's computer room. She extended an invitation to Commissioners to participate in the Senior Center Open House and celebration commemorating the first anniversary in the new facility on Thursday, May 13, 2004 from 1:00-3:30 p.m.

ooo

**Item #5
7 25 p m**

Audience Participation for Items Not on the Agenda

At this time, Chair Deen recognized the following members in the audience to address the Commission:

Laura Neufeld of the Culver City Public Theater, expressed concern that construction of the new restrooms at Carlson Park may not be completed in time for the start of the Public Theater's summer season, to begin July 20, also asked about the feasibility for a larger storage space in the new restroom facility for their costumes and stage equipment.

Marty Nicholson, Recreation Manager, explained that when the grant application was prepared for the Carlson Park restroom project, a letter of support for expanded storage was submitted by Public Theater and included in the grant.

Ms. Neufeld was invited to arrange with staff to view the design plan for the Carlson Park restroom project.

Scott Malsin, resident of West Culver City, stated that he was pleased the survey to obtain community input on future planning and improvement efforts for Culver West Park had been distributed to adjacent Los Angeles residents through the cooperation of Council member Cindy Miscikowski's office. He said he had posted the community survey on the neighborhood web site for public access. He concluded by thanking the Commission for their support and continued interest, and offered his assistance in moving this process forward.

ooo

**Item #7a
7 40 p m**

Review of Proposed Amendments to the City Ordinance Regarding Park Usage

Marty Nicholson, Recreation Manager, gave the staff report.

The Commission reviewed each of the nine proposed Municipal Code revisions recommended by staff with legal guidance from Heather Iker, Deputy Prosecuting Attorney from the City Attorney's Office. Following discussion, the Commission took the following actions on each of the recommended revisions:

(1) Park Use Permit

MOVED BY COMMISSIONER SHAPIRO, SECONDED BY COMMISSIONER COOPER AND UNANIMOUSLY CARRIED, TO APPROVE THE PROPOSED MUNICIPAL CODE REVISIONS TO THE CHAPTER ON PARK USAGE AS IT PERTAINS TO THE CONDITIONS UNDER WHICH A PARK USE PERMIT IS ISSUED

(2) Compliance

MOVED BY COMMISSIONER SHAPIRO, SECONDED BY COMMISSIONER JAMES AND UNANIMOUSLY CARRIED, TO APPROVE IN CONCEPT THE PROPOSED MUNICIPAL REVISION TO THE CHAPTER ON COMPLIANCE AS IT RELATES TO CERTAIN VIOLATIONS THAT SHOULD BE DEEMED INFRACTIONS RATHER THAN MISDEMEANORS AND THE RESULTING PENALTIES

(3) Unattended Children and (4) Control of Children

MOVED BY COMMISSIONER JAMES, SECONDED BY COMMISSIONER COOPER AND UNANIMOUSLY CARRIED, TO APPROVE THE PROPOSED MUNICIPAL CODE REVISION TO THE CHAPTERS ON UNATTENDED CHILDREN AND CONTROL OF CHILDREN ISSUES AND WHETHER THESE SHOULD BE ADMINISTRATIVE POLICIES OR INCLUDED IN THE CITY'S MUNICIPAL CODE

(5) Tennis Courts

MOVED BY COMMISSIONER ALEXANDER, SECONDED BY COMMISSIONER COOPER AND UNANIMOUSLY CARRIED, TO APPROVE MINOR, NONSUBSTANTIVE CHANGES RECOMMENDED TO THE MUNICIPAL CODE CHAPTER PERTAINING TO PROHIBITIVE USE OF CITY-OWNED TENNIS COURTS FOR PROFESSIONAL INSTRUCTION WITHOUT A CONTRACTUAL AGREEMENT WITH THE CITY OF CULVER CITY

(6) Abandoned Personal Property and (7) Shopping Carts

MOVED BY COMMISSIONER ALEXANDER, SECONDED BY COMMISSIONER COOPER AND UNANIMOUSLY CARRIED THAT THE COMMISSION DEFER ANY ACTION ON THE PROPOSED MUNICIPAL CODE AMENDMENTS TO THE CHAPTERS RELATING TO ABANDONED PERSONAL PROPERTY AND SHOPPING CARTS IN PUBLIC PARKS, UNTIL FURTHER RESEARCH AND ANALYSIS BY THE CITY ATTORNEY'S OFFICE TO ADDRESS POTENTIAL DUE PROCESS AND STATE LAW PRE-EMPTION ISSUES IS COMPLETED

(8) Field Use Permits

This section will be combined with the Park Use Permit portion and divided into two subsections 1) one dealing with picnic use and 2) the other with field use Staff will need to submit a definition of the term field"

(9) No Smoking

There was discussion regarding the new State law prohibiting smoking within 25 feet of a playground or sandbox area, and related options the City Council will be considering including 1) enforcement of the State law only, 2) adoption of a stricter policy (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 parks

Chair Deen referred to his written comments addressing this issue

MOVED BY COMMISSIONER JAMES, SECONDED BY COMMISSIONER SHAPIRO THAT THE COMMISSION SUPPORT THE ADOPTION OF A TOTAL BAN ON SMOKING IN THE PARKS AND A STRICTER POLICY OF NO-SMOKING IN THE PARKS

The Chair called for a vote on the Motion which resulted in the following

AYES	Commissioners James and Shapiro
NOES	Commissioners Alexander, Cooper and Deen
ABSTAIN	None
ABSENT	None

THE MOTION FAILED BY A 3-2 VOTE

MOVED BY COMMISSIONER COOPER, SECONDED BY COMMISSIONER ALEXANDER, THAT THE COMMISSION SUPPORT THE ENFORCEMENT OF THE CURRENT STATE LAW ONLY AS IT PERTAINS TO THE PROHIBITION OF SMOKING WITHIN 25 FEET OF A PLAYGROUND OR SANDBOX AREA

The Chair called for a vote on the Motion which resulted in the following

AYES	Commissioners Deen, Cooper and Alexander
NOES	Commissioners James and Shapiro
ABSTAIN	None
ABSENT	None

THE MOTION PASSED BY A 3-2 VOTE

ooo

Item #8c
8 45 p m

Progress Report on the Dog Park

Vicki Daly-Redholtz, Chair of the Friends of Culver City Dog Park, announced the following upcoming events

- Daphne s Greek Fundraiser on Tuesday, May 25, 5 00-9 00 p m
- Annual Rabies Vaccination Clinic on Thursday, June 3, 7 00-9 00 p m in the parking lot behind the Veterans Memorial Building
- Bone Yard Bash 2 Annual Fundraiser on Saturday, October 16, 6 00 p m , Radisson Hotel

She encouraged public input on the Los Angeles Animal Control as the renewal of their contract will be discussed at the City Council meeting on May 10 She indicated the Animal Control agency is important to the Dog Park effort because they collect the dog license fees and provide services for lost animals, and that they would be the agency to assist with dog-related problems in the Dog Park

She mentioned board members have met with the City Attorney s office to discuss proposed changes to the City ordinance regarding dog park rules and agreements for use of the Dog Park

Commissioner James asked about her previous request to agendize for discussion the feasibility of amending the City ordinance on an interim basis to allow leashed dogs in public parks until the Dog Park is developed and open to dog owners

Mr Rogers assured her that her requested item would be agendized for the Commission s June meeting

Examples of Local Jurisdictions Smoking Restrictions in Parks

City of Pasadena

Section 8 78 051 Prohibition of smoking in public parks

- A It is unlawful for any person to possess a burning tobacco or tobacco-related product, including but not limited to cigars and cigarettes, to chew tobacco or tobacco-related products, to dispose of lighted or unlighted cigars or cigarettes or cigarette butts, or any other tobacco-related waste, in or upon any dedicated city park, playground or recreation center
- B The Brookside Park golf course and clubhouse patio shall be exempt from this restriction (Ord 6962 § 2 (part) 2004)

City of Santa Monica

Section 4 44 020 Prohibitions

(a) Smoking in specific locations

It shall be unlawful to smoke in the following places

- (1) Any elevator,
- (2) Any public park,
- (3) Any public beach,
- (4) Anywhere on the Santa Monica Pier, except in designated areas,
- (5) Any outdoor service area,
- (6) Inside any public building (as that term is defined in Government Code Section 7596) or within 20 feet of any entrance, exit or window of a public building

City of San Francisco

Section 1009 81 Prohibiting Smoking in City Parks and Recreational Areas

- (a) Smoking is prohibited on any unenclosed area of property in the City and County of San Francisco that is open to the public and under the jurisdiction of the Recreation and Park Commission or any other City department if the property is a park, square, garden, sport or playing field, pier, or other property used for recreational purposes
- (b) Nothing in this section is intended to change the provisions of Health Code Section 1009 22(b) regulating smoking in sport stadiums
- (c) Each City department with jurisdiction over property subject to this Article shall post signs in appropriate locations to provide public notice that smoking is prohibited
- (d) The provisions of this Article do not apply in any circumstance where federal or state law regulates smoking if the federal or state law preempts local regulation or if the federal or state law is more restrictive
- (e) The provisions of this Article do not apply to playgrounds or tot lot sandbox areas, in and around which smoking is prohibited by California Health and Safety Code Section 104495
- (f) The provisions of this Article do not apply to piers primarily used for commercial purposes
- (g) The provisions of this Article do not apply to golf courses (Added by Ord 28 05 File No 041307 App 2/4/2005)

City of Fresno

Section 8-401 Prohibited Acts in Parks

Within the limits of any park, no person shall do any of the acts hereinafter specified to wit

- (25) Possess a lighted or burning tobacco or tobacco-related product, including but not limited to cigars, cigarettes and pipes, use or chew tobacco or tobacco-related products, or dispose of any lighted or unlighted tobacco or tobacco-related product in any place other than a designated waste disposal container This subsection shall expire one year from its effective date (Orig Ord 1076 3244 and 3356 Am Ord 5311 1958 Am Ord 6007 1961 Am Ord 6915 1966 Am Ord 67 138 1968 Am Ord 72 41 1972 Am Ord 2004 138 § 1 eff 1 25 05)

City of El Monte

Section 9 10 020 Prohibition

- A It is unlawful for any person to smoke a cigarette, cigar, or other tobacco-related product at all city of El Monte parks, from curb to curb in or upon any dedicated city park, playground or recreation center including but not limited to Arceo Park, Fletcher Park, Pioneer Park, Rio Vista Park, Baldwin Mini Park, Lambert Park, Mountain View Park, Zamora Park, Gibson Park, Lashbrook Park and Santa Fe Trail Historical Park, including but not limited to any play areas, tot lot sandbox area, buildings and any parking lots adjacent to park
- B It is unlawful for any person to dispose of cigarette butts, cigar butts, or any other tobacco-related waste at all city of El Monte parks, from curb to curb in or upon any dedicated city park, playground or recreation center including but not limited to Arceo Park, Fletcher Park, Pioneer Park, Rio Vista Park, Baldwin Mini Park, Lambert Park, Mountain View Park, Zamora Park, Gibson Park, Lashbrook Park and Santa Fe Trail Historical Park, including but not limited to any play areas, tot lot sandbox area, buildings, and any parking lots adjacent to park
- C The department or division responsible for maintenance of all city of El Monte parks shall post signs indicating the prohibitions set forth in subsections A and B of this section Such signs shall be posted in at least three (3) conspicuous locations in each park (Ord 2645 § 1 2005 Ord 2549 § 1 (part) 2002)

City of San Fernando

Section 54 27 Smoking prohibited

- (a) No person shall be in possession of a burning tobacco or tobacco-related product, including but not limited to cigars and cigarettes, in or upon any park, playground or recreation center
- (b) No person shall chew tobacco or tobacco-related products, in or upon any park, playground or recreation center
- (c) No person shall dispose of lighted or unlighted cigars or cigarettes, or cigar or cigarette butts, or any other tobacco-related waste in or upon any park, playground or recreation center
- (d) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to obtain compliance with this section (Ord No 1525 § 1 9 4 2001)

Examples of Local Jurisdictions Smoking Restrictions on Beaches

City of Los Angeles

Section 63 44 Regulations Affecting Park and Recreation Areas

A Definitions As used in this section

“Beach” shall include public seashore and shoreline areas bordering the Pacific Ocean that are owned, managed or controlled by the City (Added by Ord No 163 039 Eff 1/17/88)

“Park” shall include every public park, roadside rest area, playground, zoological garden, ocean, beach or other recreational facility area, together with any parking lot, reservoir pier, swimming pool, golf course, court, field, bridle path, trail, or other recreational facility, or structure thereon, in the City of Los Angeles and under the control, operation or management of the Board of Recreation and Park Commissioners, the Los Angeles County Department of Parks and Recreation, the Los Angeles County Department of Beaches, or the Los Angeles Memorial Coliseum Commission “Park” does not include any State Historic Park located within the City of Los Angeles

“Board” shall mean the Board of Recreation and Park Commissioners

I Within the limits of parks consisting of beaches and water recreation areas

No person shall light, ignite, or otherwise set fire to, or smoke, carry, throw or discard any lighted tobacco products, including cigarettes, cigars or smoking tobacco For purposes of this Subdivision, "smoke" shall include the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the emitting or exhaling the smoke of a pipe, cigar, cigarette or any other smoking equipment No person shall discard, dispose of, or deposit any tobacco product, including cigarette and cigar butts and ashes, except in approved containers specifically placed and designated for receipt of trash, refuse, rubbish, litter or other kind of waste materials The Department shall post and maintain "No Smoking" signs in conspicuous locations All such signs shall clearly and conspicuously recite the phrase "NO SMOKING" and/or use the international no-smoking symbol and shall cite this Subdivision of Section 63 44 of the Los Angeles Municipal Code A violation of this Subdivision shall be punishable as an infraction (Added by Ord No 153 027 Eff 11/16/79)

City of Malibu

Section 12 08 035 Smoking prohibited on beaches

Notwithstanding the provisions of Section 12 08 020(A), it is unlawful to smoke on any public beach or any area of the Malibu Pier not designated for smoking within the city of Malibu For the purpose of this section, “smoking” means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar or pipe For the purpose of this section, beach shall not include parking lots or roadways (Ord 265 § 1 2004)

City of Santa Monica

Section 4 44 020 Prohibitions

(a) Smoking in specific locations

It shall be unlawful to smoke in the following places

- (1) Any elevator,
- (2) Any public park,
- (3) Any public beach,
- (4) Anywhere on the Santa Monica Pier, except in designated areas,
- (5) Any outdoor service area,
- (6) Inside any public building (as that term is defined in Government Code Section 7596) or within 20 feet of any entrance, exit or window of a public building

City of Huntington Beach

Section 13 08 115 Smoking Boundaries

No person shall smoke on the Beach, Pier or Pier Plaza unless the Director has designated a specific signed smoking area (3656 8/04)

City of Laguna Beach

Section 7 40 115 Smoking prohibited-- Public beaches and public beach access ways

Smoking is prohibited and is unlawful within the boundaries of any public beach and within any public beach access way, including but not limited to walkways, boardwalks and stairways, adjoining public beach areas (Ord 1444 § 1 2004)

City of San Clemente

Section 8 64 140 Beaches--Smoking prohibited except in designated smoking areas

No person shall smoke within the boundaries of any public beach, including public walkways and strands adjoining beach areas, or the municipal pier, except in certain outdoor locations and patio areas, if any, that the City Council specifically designates by resolution as temporary or permanent smoking areas (Ord 1291 § 2 2004)

City of Manhattan Beach

Section 12 08 320 Smoking prohibited on beaches

A Definitions For purposes of this section the following definitions shall apply

“Beach” shall mean and include the sandy area on either side of the mean high tide line all the way up to, but not including the strand walkway or the parking lots on the west side of the strand walkway and shall also include the entire Manhattan Beach Municipal Pier

“Smoke/smoking” means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance Smoking shall include the emitting or exhaling the fumes of any of the foregoing

B Prohibitions

- 1 No person shall smoke on the beach as defined in this section

- 2 No person shall dispose of any cigarette, cigar or other tobacco product or any part thereof on the beach except in a designated waste disposal container

C Enforcement

- 1 Each separate violation of this section is an infraction
- 2 Punishment under this section shall not preclude punishment pursuant to Health and Safety Code Section 13002, Penal Code Section 374 4 or any other law proscribing the act of littering Nothing in this section shall preclude any person, corporation or governmental entity from seeking any other remedies, penalties or procedures provided by law whether civil or criminal (§ 1 Ord 2066 eff November 5 2004)

City of Newport Beach

Section 11 08 080 Smoking on City Beaches, Municipal Piers, Public Floats and Public Wharves

- A "Smoke" or "Smoking" means the carrying or holding of a lighted pipe, a lighted cigarette or lighted cigarette of any kind, or any other lighted smoking equipment, and a lighting of a pipe, cigar or cigarette, of any kind, and, inhaling, emitting, or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment
- B No person shall smoke within the boundaries of any public oceanfront or bay front beach, including public walkways and strands adjoining beach areas, the municipal piers, public floats, public wharves, Inspiration Point or Lookout Point, except in certain outdoor locations and patio areas, if any, that the City Council specifically designates by a resolution as temporary or permanent smoking areas
- C Disposal of Smoking Waste No person shall dispose of any cigarette, cigar or tobacco, or any part of a cigarette or cigar, including cigarette and cigar butts and ashes and used matches in any place where smoking is prohibited under this chapter, except in any specifically designated smoking waste receptacle
- D A violation of this section is an infraction
- E Punishment under this section shall not preclude punishment pursuant to Health & Safety Code Section 13002, Penal Code Section 374 4, or any other law prescribing act of littering Nothing in this section shall preclude any person from seeking any other remedies, penalties or procedures provided by law (Ord 2004-19 § 2, 2004)

City of El Segundo

**ORDINANCE NO 1385
BEACH REGULATIONS**

**AN ORDINANCE ADDING A NEW SECTION 10-3-12 TO CHAPTER 3 OF TITLE 10
TO THE EL SEGUNDO MUNICIPAL CODE ENTITLED "BEACH REGULATIONS "**

The city council of the city of El Segundo does ordain as follows

SECTION 1 A new section 10-3-12 is added to ESMC Title 10 Chapter 3 to read as follows

Smoking Prohibited

It is unlawful to smoke on any public beach within the city of El Segundo For the purpose of this section, smoking means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar or pipe For the purpose of this section, beach does not include parking lots or roadways

SECTION 2 Repeal of any provision of the El Segundo Municipal Code will not affect any penalty, forfeiture, or liability incurred before or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance

SECTION 3 If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable

SECTION 4 The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of El Segundo's book of original ordinances make a note of the passage and adoption in the records of this meeting, and, within fifteen (15) days after the passage and adoption of this Ordinance cause it to be published or posted in accordance with California law

SECTION 5 This Ordinance will become effective thirty (30) days following its passage and adoption

PASSED AND ADOPTED this 2 day of AUGUST 2005

City of Long Beach

ORDINANCE NO ORD-05-0015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH
AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTIONS
8 68 020 AND 16 16 010 AND BY ADDING SECTION 8 68 065 TO BAN SMOKING ON
CITY BEACHES THE BEACH BIKE PATH AND BEACH LAUNCH RAMPS

The City Council of the City of Long Beach ordains as follows

WHEREAS the City of Long Beach seeks to reduce the amount of pollution caused by
discarded tobacco products such as cigarette and cigar butts and

WHEREAS, the City of Long Beach seeks to reduce health risks to young children, as
well as the likelihood that children will find and play with discarded tobacco products
such as cigarette butts and/or cigar butts,

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows

Section 1 Section 8 68 020 of the Long Beach Municipal Code is hereby amended in its
entirety to read as follows

8 68 020 Definitions

The following words or phrases, whenever used in this ordinance, shall be given
the following definitions

A "Adjacent Water Areas" shall mean 50 feet seaward of the mean high tide
line of the City Beaches

B "Bar" means an area which is devoted to serving of alcoholic beverages
and in which the service of food is only incidental to the consumption of such
beverages Bar shall also include a nightclub or cabaret where entertainment
and/or dancing are provided in addition to the consumption of alcoholic
beverages or food

C "Beach Bike Path" shall mean that portion of the bike path located on the
sand areas of the beach from the eastern edge of the Long Beach Shoreline
Marina parking lot at approximately Alamitos Avenue easterly to the
southeastern corner of the intersection of Ocean Boulevard at approximately
Bayshore Avenue

D "Beach Launch Ramps" shall mean the launch ramps located at the foot of
Claremont Avenue and Granada Avenue

E "Child care facility" means any location or portion thereof where children other than those of the owner operator or proprietor are cared for or supervised in exchange for anything of value

F "Cigar" shall have the same definition as California Health and Safety Code Section 104550, as currently defined or as may be amended

G "Cigarette" shall have the same definition as California Health and Safety Code Section 104556 as currently defined or as may be amended

H "City facility" means any enclosed structure wherever owned or used by the City of Long Beach for its operations or activities

I "City vehicle" means any vehicle owned and operated by the City for public purposes

J "Employee" means any person who is employed for any employer for direct or indirect monetary wages or profit

K "Employer" means any person who employs the services of any person other than himself or herself

L "Enclosed" means closed in by a roof and four (4) walls with appropriate openings for ingress and egress but does not include areas commonly described as public lobbies

M "Motion Picture Theater" means any theater engaged in the business of exhibiting motion pictures

N "Playground," for purposes of California Health and Safety Code Section 104495, is more specifically defined to mean twenty-five feet (25') from the edge of a sand area within a city park or recreational area specifically designed to be used by children and that has play equipment installed in it

O "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, retail stores retail service establishments, retail food production and marketing establishments restaurants theaters auditoriums gymnasiums waiting rooms reception areas educational facilities health facilities, public transportation facilities, bowling alleys, bingo parlors hair salons, laundromats, gaming clubs, bars taverns, hotel and motel lobbies A private residence is not a "public place", except that the enclosed common areas of apartment or condominium structures, if any shall be considered "public places" for purposes of Section 8 68 060

P "Service Line" means an indoor line or area in which persons await service of any kind, regardless of whether or not such service involves the exchange of money. Such service shall include but is not limited to sales providing information, directions, or advice and transfers of money or goods.

Q "Smoke" or "Smoking" shall mean the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind or the lighting of a pipe, cigar or cigarette of any kind, including but not limited to tobacco, or any other weed or plant.

R "Workplace" means any enclosed area of a structure or portion thereof occupied by any entity and frequently by employees during the normal course of their employment where clerical, professional, manufacturing, business services or other normal and customary activities of the entity are performed or where other work is done at that location. Workplace also includes, but is not limited to, spaces in office buildings, medical office waiting rooms, libraries, museums, gaming clubs, bars, taverns, employee lounges, employee breakrooms, conference rooms, and employee cafeterias. A private home is not a workplace except where such home is used as a child care facility as defined in Section 8 68 020(8).

Sec 2 Section 16 16 010 of the Long Beach Municipal Code is amended to add Section 16 16 010(R) to read as follows:

6 16 010(R) Smoking shall be banned on City beaches, the beach bike path and City beach launch ramps as more specifically set forth in Chapter 8 68 of this Code.

Sec 3 Section 8 68 065 is added to the Long Beach Municipal Code to read as follows:

8 68 065 Smoking prohibited - City beaches, beach bike path and beach launch ramps.

Smoking shall be prohibited on all sand areas and Adjacent Water Areas of City beaches, the Beach Bike Path and Beach Launch Ramps, with the exception of designated outdoor dining areas or permitted beach concessions and permitted activities, including but not limited to, filming and/or special events.