


REPORT TO CITY COUNCIL

DATE: JANUARY 28, 2015

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT *mk*

SUBJECT: ADOPTION OF ORDINANCE NO. 15-414; AMENDING THE SMOKING IN PUBLIC PLACES ORDINANCE BY REGULATING ELECTRONIC CIGARETTES IN THE SAME MANNER AS OTHER SMOKING DEVICES, AMENDING THE AREAS WHERE SMOKING IS NOT ALLOWED IN PUBLIC PLACES, AMENDING CHAPTER 4 OF ARTICLE V OF THE AGOURA HILLS MUNICIPAL CODE AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. 14-ZOA-005) (CITY OF AGOURA HILLS, APPLICANT)

At the January 14, 2015, City Council meeting, on a 4-1 vote (Council Member Weber opposed), the Council introduced, read by title only, and waived further reading of Ordinance No. 15-414.

The Ordinance amends the Municipal Code to further define and regulate smoking in public places and the use of electronic cigarettes in the same manner as other smoking devices. Attached for your reference is a copy of Ordinance No. 15-414.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 15-414, amending the Smoking in Public Places Ordinance by regulating electronic cigarettes in the same manner as other smoking devices, amending areas where smoking is not allowed in public places, amending Chapter 4 of Article V of the Municipal Code and making a finding of exemption under the California Environmental Quality Act.

Attachment: Ordinance No. 15-414

ORDINANCE NO. 15-414

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE SMOKING IN PUBLIC PLACES ORDINANCE BY REGULATING ELECTRONIC CIGARETTES IN THE SAME MANNER AS OTHER SMOKING DEVICES, AMENDING THE AREAS WHERE SMOKING IS NOT ALLOWED IN PUBLIC PLACES, AMENDING CHAPTER 4 OF ARTICLE V OF THE AGOURA HILLS MUNICIPAL CODE AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. 14-ZOA-005)

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines, and the City's local CEQA Guidelines, City staff for the City of Agoura Hills determined that the proposed Ordinance to amend Chapter 4 (Smoking in Public Places) of Article V of the Agoura Hills Municipal Code has no possibility of causing a significant impact on the environment. Staff concludes that the proposed Ordinance is exempt from the application of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This finding is premised on the fact that the project consists of proposed Ordinance definitions and minor amendments and clarifications for smoking regulations, and does not include proposed construction or proposed alteration to the physical environment. Furthermore, the Ordinance will have no adverse environmental effects because it will reduce the public's exposure to the harmful effects of second-hand smoke. The City Council concurs with City staff's determination and therefore directs staff to prepare and file a Notice of Exemption with the County Clerk, pursuant to CEQA Guidelines Section 15062, within five days of the date of this action.

Section 2. Subsection (o) (Smoking) of Section 5402 (Definitions) of Chapter 4 (Smoking in Public Places) of Article V (Sanitation and Health) of the Agoura Hills Municipal Code is hereby amended to read as follows:

"(o) *Smoking* means burning, carrying, exhaling or inhaling any lighted cigar, cigarette, pipe, weed, plant or other smoking material in any manner or in any form, or operating any electronic cigarette."

Section 3. Section 5402 (Definitions) of Chapter 4 (Smoking in Public Places) of Article V (Sanitation and Health) of the Agoura Hills Municipal Code is hereby amended by adding subsections (r), (s), (t), (u), and (v) to read as follows:

- (r) Common area at a shopping center means any outdoor common area of a shopping center accessible to and useable by the occupants or customers of more than one (1) retail establishment used as a lobby, outdoor eating area, play area, or gathering area with either seats, benches or a water feature such as a fountain.
- (s) Dining area means a non-residential location where food or beverages are served by a business or routinely consumed by customers. This includes, but is not limited to, restaurant or bar seating areas, outdoor customer dining areas and patios.
- (t) Electronic cigarette or e-cigarette means any electronic or battery operated device that delivers vapors for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an e-cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, and an electronic hookah, or sold by or distributed by any other product name or descriptor.
- (u) Outdoor service area means a place where people use or wait for services provided by a private or public entity. This includes, but is not limited to, bus stops, bank ATM lines, information kiosks and theater lines.
- (v) Shopping Center means any parcel of land used for retail sales by more than one (1) retailer that is jointly operated or which includes shared parking facilities.

Section 4. Paragraph (9) of subsection (a) of Section 5403 (Prohibition of Smoking in Public Places) of Chapter 4 (Smoking in Public Places) of Article V (Sanitation and Health) of the Agoura Hills Municipal Code is hereby amended to read:

“(9) Every room, chamber and place of meeting or public assembly under the control of any board, council, commission, or committee of the city, ~~the school district, the county or any other political subdivision of the state~~ during such time as a public meeting is in progress.”

Section 5. Subsection (a) of Section 5403 (Prohibition of Smoking in Public Places) of Chapter 4 (Smoking in Public Places) of Article V (Sanitation and Health) of the Agoura Hills Municipal Code is hereby amended to add paragraphs (12), (13), (14) (15), (16), (17), (18) and (19) to read as follows:

(12) Public parks.

(13) Public sports fields.

(14) Outdoor service areas.

(15) The grounds of Agoura Hills City Hall, Library, and Recreation Center.

(16) Outdoor customer dining areas.

(17) Outdoor common areas at a shopping center.

(18) Outdoors within twenty-five (25) feet of any entrance or exit of any building open to the public.

(19) A bus, taxi cab, shuttle van, or other means of public transportation.”

Section 6. If any provision of this ordinance, or the application thereof, to any person or circumstances is held invalid or unconstitutional by any court or competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end, the provisions of this ordinance are declared to be severable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2015, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM

Candice K. Lee, City Attorney