



**CITY OF BEVERLY HILLS**  
**POLICY AND MANAGEMENT**

**MEMORANDUM**

**TO:** Health & Safety Commission

**FROM:** Kevin Kearney, Senior Management Analyst

**DATE:** December 19, 2016

**SUBJECT:** Exploring Strengthening and Expanding Current City Smoking Regulations

**ATTACHMENTS:**

1. City Council Staff Report, December 6, 2016
2. Title 5, Chapter 4 of the Beverly Hills Municipal Code – Smoking Regulations
3. State of Tobacco Control 2016 – California Local Grades, American Lung Association

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**INTRODUCTION**

At the December 6, 2016 Study Session, Staff presented information on the City's current smoking regulations to City Council. After the presentation, Council tasked the Health and Safety Commission with exploring the potential of strengthening and expanding current City smoking regulations, including in open air dining, hotels, sidewalks, and a complete ban in public areas. The video of the discussion can be found at the following link:

[http://beverlyhills.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=5375&meta\\_id=315335](http://beverlyhills.granicus.com/MediaPlayer.php?view_id=2&clip_id=5375&meta_id=315335)

This report identifies potential areas to strengthen and expand current City regulations through the American Lung Association's State of Tobacco Control report. The Commission may decide to move forward with recommendations to Council after this meeting or request additional information from Staff to be brought back to the Commission for further consideration. In either sense, it is recommended that the Commission consider any potential stakeholders that new regulations may affect, such as residents, businesses and/or tourism.

**DISCUSSION**

To protect and promote the public health, the City of Beverly Hills regulates smoking in accordance with both state and local regulations. A summary of where smoking/vaping is permitted and not permitted is outlined in the following table:

Areas where Smoking is Permitted	Areas where Smoking is Not Permitted
<p><b>According to State Law:</b></p> <ul style="list-style-type: none"> <li>• Designated hotel/motel rooms and areas</li> <li>• Private smoker lounges</li> <li>• Private single family residence</li> </ul>	<p><b>According to State Law:</b></p> <ul style="list-style-type: none"> <li>• Inside public buildings</li> <li>• Near windows of public buildings</li> <li>• Outdoor areas within 20 ft. of public buildings</li> <li>• Enclosed space at places of employment</li> <li>• Public school property</li> <li>• In a vehicle with a minor</li> </ul>
<p><b>Areas Currently Not Regulated:</b></p> <ul style="list-style-type: none"> <li>• Sidewalks</li> <li>• Alleyways</li> <li>• Beyond 5 ft. of outdoor dining areas</li> <li>• Beyond 20 ft. of operable doors and windows of public buildings</li> </ul>	<p><b>According to City Regulations</b></p> <ul style="list-style-type: none"> <li>• City parks and recreational facilities</li> <li>• Open air dining areas located on private and public property, including public right of way</li> <li>• Within 5 ft. of open air dining areas, except while actively passing by</li> <li>• City-owned vehicles</li> <li>• Outdoor public gathering events</li> <li>• Outdoor service lines (e.g. ATM and movie/theatre ticket lines)</li> <li>• Farmers Markets</li> <li>• Public and private plazas (except for clearly marked designated smoking areas on private plazas located beyond 20 ft. of operable doors)</li> </ul>

Each year, the American Lung Association issues its State of Tobacco Control report, which designates a letter grade to local cities on their overall tobacco regulations. Currently, the City of Beverly Hills has a designated “C” grade for not having smoking regulations in multi-unit housing. Therefore, once a policy is in place, it is expected that the American Lung Association will designate a local grade for the City as an “A” as this is the last major section of smoking regulations within the City.

Currently seven (7) of the eighty-eight (88) cities in Los Angeles County have an “A” designation: Baldwin Park, Compton, Glendale, Huntington Park, Manhattan Beach, Pasadena and Santa Monica. In comparing Beverly Hills’ grade to these other cities, there are areas of strengthening and expanding that the City could move toward. These could potentially include strengthening regulations with entry ways and public events, and expanding into sidewalks and worksites. Additionally, the City Council had discussed about potentially expanding regulations in open air dining, hotels, and even a complete Citywide ban.

Entry Ways

The City of Beverly Hills currently has a score of two (2) out of a possible four (4) for smoking with respect to entryways. The City’s current score is probably because the City has current regulations prohibit smoking within a five (5) foot radius of outdoor dining areas. Additionally, smoking is prohibited in all outdoor public and private plazas, with the exception of a designated smoking area, which must be at least twenty (20) feet away from all building entrances, exits, or designated pathways.

To achieve a full score of four (4) in this area, the City would need to prohibit smoking within at least a 20-foot radius of all entryways, regardless of the building is public or private. For

example, Burbank achieved a full score of four (4). Their ordinance prohibits smoking within twenty (20) feet of any entrance or exit, open window (including drive-through, drive up, and walk-up service windows), air intake, or other opening of a building or other enclosed space that is open to, and while open to the general public. This includes, but is not limited to offices, stores, banks, museums, and theaters. This prohibition does not apply to outdoor dining areas, though, as this is its own separate category with different regulations.

#### Public Events

The City currently has a score of three (3) out of a possible four (4) for smoking with respect to public events. To achieve a full score of four (4) in this area, the City may need to completely prohibit smoking at all public events. The reason why the City achieved a score of three (3) is because the City's current municipal code prohibits smoking at outdoor public gatherings, but allows designated smoking areas.

The cities of Hermosa Beach and Pasadena have both achieved a full score of four (4). Hermosa Beach and Pasadena completely ban smoking at all public events and do not allow for any designated smoking areas.

#### Sidewalks

The City currently has a score of zero (0) out of a possible (1) for smoking with respect to sidewalks in commercial areas. The methodology for the State of Tobacco Control does not factor in residential sidewalks, only pedestrian walkways within all commercial areas, specified commercial areas, or downtown areas.

The City of Burbank, for example, achieved a full score of (1). The city's ordinance prohibits smoking on all non-enclosed sidewalks, paseos, and other pedestrian areas in Downtown Burbank that are accessible to the general public, except within designated smoking areas.

#### Worksites

The City currently has a score of zero (0) out of a possible (1) for smoking with respect to worksites, which the State of Tobacco Control report defines as outdoor places of employment, such as construction sites. To achieve a full score of one (1), the City would need to restrict smoking in such areas.

The City of Glendale, for example, achieved a full score of (1). In their ordinance, the city extends smoking regulations to their construction sites and outdoor work areas.

#### Open Air Dining

During the Study Session, the Council had discussed extending regulations near open air dining to match other surrounding cities. For example, the City of Glendale prohibits smoking within a twenty (20) foot radius of open air dining and the City of Los Angeles has a ten (10) foot radius. The City of Beverly Hills currently has a five (5) foot radius, which is comparable to Culver City, West Hollywood and Burbank. Although smoking is prohibited within a five (5) foot radius of an open air dining area in Beverly Hills, there is an exception to the prohibition providing one is actively passing on the way to another destination.

#### Hotels

During the December 6, 2016 Study Session, the Council had discussed extending regulations in hotels. The Beverly Hills municipal code allows for smoking in up to twenty-five (25) percent of contiguous deck space surrounding hotel swimming pools. Whereas, the California State Labor Code Section 6404.5 regulates tobacco usage in certain indoor workplaces to include hotel and

motel lobbies, meeting rooms and banquet rooms. Additionally, the State Labor Code regulates smoking inside hotel and motel rooms, but allows for twenty (20) percent of guestrooms to be labeled as “smoking”.

The City of Santa Monica, for example, completely prohibits smoking in any hotel for which an occupancy permit is issued on or after February 9, 2012. This regulation ensured that the smoking ban was applied only to all newer hotel buildings within the city.

### Citywide Prohibition

At the December 6, 2016 Study Session, the City Council had discussed a potential citywide ban on smoking. To gain a better understanding of citywide regulations, its best to examine two (2) cities with these type of prohibitions – cities of Manhattan Beach and Calabasas.

The City of Manhattan Beach prohibits smoking in all public places, places of employment (as defined by City and State) and any area within twenty (20) feet of any door, window, opening, or vent, into a public place, except for such areas on private residential property. Smoking though may be permitted at the following locations:

- Private residential property, other than those used as a child-care or health-care facility.
- In up to twenty (20) percent of any guest rooms in any hotel or motel, which is consistent with current State law.
- Within a moving vehicle.

The City of Calabasas also regulates smoking everywhere in the city, including by not limited to public places, places of employment, multi-unit residence common areas and enclosed/unenclosed places of hotels, businesses, restaurants and bars and other public accommodations. There are a few exceptions to these rules. Therefore, smoking in Calabasas may be permitted at the following locations:

- Private residential property, other than a child-care or health-care facilities.
- Up to twenty (20) percent of guest rooms in any hotel or motel, which is consistent with current State law.
- Designated smoking areas in multi-unit housing.
- In designated unenclosed areas in shopping mall common areas.
- Any outdoor area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive.

### **RECOMMENDATION**

It is recommended that the Commission review this report and provide feedback to Staff, so that Staff may further assist the Commission with crafting recommendations to the City Council. The Commission may decide to move forward with recommendations on strengthening or expanding current smoking regulations during the meeting. Additionally, the Commission may also decide to request additional information from Staff, which would be brought back to the Commission at a later meeting for further consideration. In either sense, it is recommended that the Commission consider any potential stakeholders that new regulations may affect, such as residents, businesses and/or tourism, as no outreach has yet been conducted with the community, the Conference and Visitors Bureau and/or Chamber of Commerce.