



AGENDA REPORT

Meeting Date: December 20, 2016
Item Number: D-6
To: Honorable Mayor & City Council
From: Kevin Kearney, Senior Management Analyst
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
PROHIBIT SMOKING IN BEVERLY CANON GARDENS
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the City Council move to waive the full reading of the ordinance, and that the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT SMOKING IN BEVERLY CANON GARDENS" be introduced and read by title only.

INTRODUCTION

This ordinance amends the municipal code to prohibit smoking in Beverly Canon Gardens pursuant to the Council direction and codifies a smoking prohibition in City parks consistent with City regulations.

DISCUSSION

At the December 6, 2016 Study Session, Staff presented information on the City's current smoking regulations to the City Council. After the presentation, Council directed Staff to prohibit smoking in Beverly Canon Gardens and 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 Commission will discuss this topic at their meeting on December 19, 2016. Additionally, the Commission is in the process of formulating recommendations to the Council for regulating smoking in multi-unit housing, and it is expected to be presented at an upcoming Study Session in early 2017.

The City currently has a smoking prohibition in City parks pursuant to the City's Recreation and Park Rules and Regulations. According to Beverly Hills Municipal Code 8-1-7, the Director of Recreation and Parks may designate such regulations pertaining to City parks, upon approval of the Council, and the Director is authorized and empowered to enforce these regulations.

Up until recently, it was assumed that the City's Recreation and Park Rules and Regulations and the regulations applicable to public/private plazas completely prohibited smoking in Beverly Canon Gardens. However, it was recently discovered that the Gardens is not entirely covered under these rules. The Gardens is not listed as a park in the City's municipal code, and only the paved areas were covered under the smoking prohibition pursuant to the regulations with public/private plazas.

During its creation, the Gardens was left off the parks' list in the municipal code so that the area could operate outside of regulations normal to a City park. For example, alcohol is prohibited in City parks, but is allowed to be served in Beverly Canon Gardens as part of a permitting process for Special Events and Wedding/Commitment Ceremonies. Since Beverly Canon Gardens is not listed as a City park, the proposed ordinance will clarify the prohibition of smoking in the entire area. In addition, the ordinance codifies no smoking in City parks consistent with current City regulations.

In response to this ordinance, Staff plans on increasing outreach and enforcement efforts to uphold the proposed smoking prohibition in Beverly Canon Gardens. Permanent signage about the smoking rules will be placed throughout the Gardens in the planter areas and on the City owned tables, the trashcans with ashtrays throughout the area have already been replaced with trashcans without the ashtray, and Staff is studying the possibility of identifying a potential designated smoking area outside the Gardens. Enforcement efforts will include increased patrol by the Police Department, Park Rangers, and the Ambassadors. Although Park Rangers and Ambassadors do not have the ability to issue citations, their verbal warnings can act as deterrents, and they do have the ability to contact the Police Department who can further escalate enforcement actions. Additionally, Staff has been working and will continue working with the businesses surrounding the Gardens to increase awareness about the smoking regulations.

FISCAL IMPACT

This ordinance does not have significant budget or fiscal impacts for the City.

Pamela Mottice-Muller *PMM*

Approved By

Attachment 1

ORDINANCE NO. 16-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT SMOKING IN BEVERLY CANON GARDENS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The city council hereby renumbers Section 5-4-16 (PENALTIES AND ENFORCEMENT) to be Section 5-4-17 (PENALTIES AND ENFORCEMENT) and adds a new Section 5-4-16 (PROHIBITION OF SMOKING IN CITY PARKS AND BEVERLY CANON GARDENS) to the Beverly Hills Municipal Code to read as follows:

5-4-16: PROHIBITION OF SMOKING IN CITY PARKS AND BEVERLY CANON GARDENS:

Smoking is prohibited in all City Parks and in the Beverly Canon Gardens located at 241 N. Canon Drive in the City of Beverly Hills.

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 3. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:

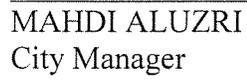
(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Handwritten signature of Laurence S. Wiener in black ink, written over a horizontal line.

LAURENCE S. WIENER
City Attorney

Handwritten signature of Mahdi Aluzri in black ink, written over a horizontal line.

MAHDI ALUZRI
City Manager