



AGENDA REPORT

Meeting Date: May 18, 2015
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
REGARDING SMOKING IN PUBLIC AND PRIVATE PLAZAS
Attachments: 1. Ordinance
2. Legislative Digest

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 Regarding Smoking in Public and Private Plazas" be introduced and read by title only.

INTRODUCTION

This ordinance amends the municipal code to correct a clerical error and clarify the smoking restrictions in private plazas and sidewalks. This correction implements the Council's previous direction to expand smoking regulations to both publicly and privately owned plazas.

DISCUSSION

At the February 18, 2014 Study Session, the City Council directed staff to proceed with drafting an ordinance to expand the City's smoking regulations to prohibit tobacco and e-cigarette use within the City. During the April 1, 2014 Council meeting, the City Council discussed and approved the Health and Safety Commission's recommendations on expanding smoking restrictions to outdoor service lines, farmers markets, outdoor public gathering events, and public and private plazas.

Upon review of the originally adopted ordinance, staff identified that the words "publicly owned" were incorrectly placed before the words "unenclosed place" rather than "sidewalk".

The original ordinance's intent was to restrict smoking in both public and private plazas, but not to restrict smoking on public sidewalks. The clerical error confused the definition of public and private plazas and allowed smoking on private sidewalks within

Meeting Date: May 18, 2015

private plazas, which would be inconsistent with the City Council's intent. The correction will implement the City Council's original direction.

FISCAL IMPACT

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

Pamela Mottice-Muller 
Approved By

Attachment 1

ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING SMOKING IN PUBLIC AND PRIVATE PLAZAS

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

Section 1. The City Council hereby amends and restates Section 5-4-14 of Chapter 4 (“SMOKING REGULATIONS”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) of the Beverly Hills Municipal Code to read as follows:

“5-4-14: PROHIBITION OF SMOKING IN PUBLIC AND PRIVATE PLAZAS:

Smoking is prohibited in all public and private plazas except in areas of private plazas that are specifically set aside for smoking and designated by posted signage, provided that such areas are not within twenty feet (20’) of building entrances or exits or designated pathways. For purposes of this section, a “public and private plaza” shall mean any unenclosed place, other than a publicly owned sidewalk, that is paved and permanently set aside for pedestrian use, including, for example, a courtyard, plaza or promenade.”

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.

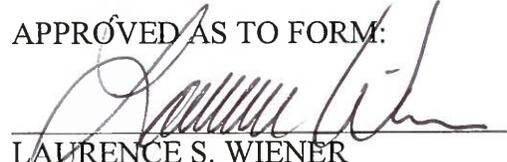
Adopted:
Effective:

JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

Attachment 2

LEGISLATIVE DIGEST

ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING SMOKING IN PUBLIC AND PRIVATE PLAZAS

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

Section 1. The City Council hereby amends and restates Section 5-4-14 of Chapter 4 (“SMOKING REGULATIONS”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) of the Beverly Hills Municipal Code to read as follows:

“5-4-14: PROHIBITION OF SMOKING IN PUBLIC AND PRIVATE PLAZAS:

Smoking is prohibited in all public and private plazas except in areas of private plazas that are specifically set aside for smoking and designated by posted signage, provided that such areas are not within twenty feet (20’) of building entrances or exits or designated pathways. For purposes of this section, a “public and private plaza” shall mean any ~~publicly owned~~ unenclosed place, other than a publicly owned sidewalk, that is paved and permanently set aside for pedestrian use, including, for example, a courtyard, plaza or promenade.”