



Administrative Report

N.1., File #19-0315

Council Action Date: 10/1/2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

TITLE

DISCUSSION AND POSSIBLE ACTION REGARDING A CITY-WIDE SMOKING BAN IN PUBLIC PLACES AND IMPLEMENTING A LOCAL TOBACCO RETAIL PERMIT.

ADOPT BY TITLE ONLY ORDINANCE NO. 3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS. FOR SECOND READING AND ADOPTION.

RE-INTRODUCE BY TITLE ONLY ORDINANCE NO. 3194-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS. FOR RE-INTRODUCTION AND FIRST READING

EXECUTIVE SUMMARY

In response to a Strategic Plan objective, staff has prepared draft ordinances to establish a City-wide smoking ban in public places and implement a local tobacco retail permit. The City Council discussed the draft ordinances on September 3, 2019 and supported the City-wide smoking ban with the exception of designated areas and directed staff to revise the proposed Local Tobacco Retail Permit Ordinance. The City-wide smoking ban is being presented for second reading and adoption.

After the September 3, 2019 hearing, the City received a letter from the National Association of Tobacco Outlets (NATO), which is included in the public comment letters attached to this administrative report. The letter requests that the local tobacco retail permit ordinance be re-introduced for first reading, stating that the addition of more flavored products was a substantive change to the original draft ordinance presented. The revised ordinance has been brought back this evening for first reading in order to provide an opportunity for additional public input and comment.

BACKGROUND

On September 18, 2018, May 7, 2019 City Council discussed potential tobacco regulations. The meetings included testimony from representatives of the Beach Cities Health District, the Coalition for Tobacco Free Los Angeles County, Los Angeles County Department of Public Health, Asian American Drug Abuse Program, along with City residents. After discussion, the Council was favorable to establishing tobacco regulations utilizing a stepped approach, where stricter regulations could be implemented over time, if needed. City Council directed staff to prepare ordinances for a

local retail tobacco control permit and smoke free public places. Draft ordinances were introduced at the City Council meeting of September 3, 2019.

City-wide Smoking Ban in Public Places

Existing law prohibits smoking in public parks and the pier. Based on City Council direction, the new ordinance would expand the prohibition and defines additional public areas where smoking would be prohibited. The proposed ordinance would define "Public place as "any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public." The smoking ban would include areas within twenty (20) feet of any door, window, opening, or vent into a public place. Residential property and moving vehicles are excluded from the ban. Violations would be punishable by infraction.

Additionally, the ordinance includes an updated definition of "smoking" and "smoke" to include electronic smoking devices and marijuana smoke.

At the September 3, 2019 meeting, City Council was presented with two versions of the proposed ordinance, one being a City-wide ban with no exceptions, the second allowing commercial locations to create designated smoking areas for employees and patrons. After discussion, City Council was supportive of the ordinance allowing for designated smoking areas, and is presented at this time for second reading and adoption.

Local Tobacco Retail Permit

Also, for further consideration this evening, is an ordinance establishing a local tobacco retail permit. The local permit is a valuable mechanism that allows the City to establish its own stricter local tobacco regulations and helps fund enforcement.

By implementing a local tobacco retail permit ordinance, the current 43 tobacco retailers, and any new, would be required to obtain and maintain an annual Tobacco Retail Permit with the City of Redondo Beach, in addition to their City Business License. Tobacco retailers include any business location where tobacco, tobacco products, and tobacco paraphernalia are sold.

Provisions included in the tobacco retail permit are:

- Defining "tobacco products" to include electronic smoking devices
- Prohibiting the sale of all flavored tobacco products
- No sales to minors
- Banning self-service displays
- Requiring an inspection once a year
- Allowing undercover enforcement
- Non-transferrable

At the September 3, 2019 meeting, discussion occurred among City Council regarding the extent to which flavored products should be banned. The proposed ordinance presented that evening excluded mint, spearmint, wintermint, and menthol from the sale prohibition, based on the assumption that those were not typical flavors which are attractive to youth. However, after public

testimony to the contrary and further discussion, Council voted to include mint and menthol variations in the definition of “flavored” and ban the sale of all flavored tobacco products. Locations which allow only patrons 21-years of age and older or active military 18-years of age and older would be excluded from the provisions.

After the hearing, the City received a letter from the National Association of Tobacco Outlets (NATO), included in the public comment letters attached to this administrative report. The letter requests that the local tobacco retail permit ordinance be re-introduced for first reading, stating that addition of more flavored products was a substantive change to the original draft ordinance presented. The revised ordinance has been brought back this evening for first reading in order to provide an opportunity for additional public input and comment.

Enforcement would be administrative, with written notices for initial violations that would allow the business to take corrective actions. Non-compliance, or further violations, will result in a 60-day suspension, then a 90-day suspension for further violation, and potential revocation for continued violations.

Annual Permit Fee

An annual permit fee will be established within the City’s Master Fee Schedule, by separate Resolution, in an amount not to exceed the City’s reasonable costs of permit administration, including staff time for inputting, processing, monitoring, and enforcing. A proposed resolution with the recommended fee amount will be presented to City Council at second reading and adoption of the ordinance.

Grace Period to Comply

Based on the City Council’s direction, current tobacco retailers will have one (1) year to comply with obtaining the local retail permit

COORDINATION

The preparation of the administrative report and ordinances have been coordinated with the City Attorney’s Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department’s portion of the adopted 2019-20 Annual Budget and is part of the department’s annual work program.

Fiscal impact of a Tobacco Retail Permit will be assessed upon adoption of a resolution establishing the permit fee

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS

- Ordinance City-wide smoking ban with the exception of designated smoking areas
- Ordinance Local Tobacco Retail Permit
- September 3, 2019 City Council Administrative Report
- Public Comment Letters
- PowerPoint Presentation