



CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 1, 2011

ITEM NUMBER:

SUBJECT: SMOKING PROHIBITION AT CITY ATHLETIC FIELDS, COMMUNITY GARDENS AND WITHIN 50 FEET OF CITY PARKS

DATE: OCTOBER 20, 2011

FROM: PUBLIC SERVICES DEPARTMENT/RECREATION DIVISION

PRESENTATION BY: DONNA THERIAULT, MANAGEMENT ANALYST

FOR FURTHER INFORMATION CONTACT: DONNA THERIAULT, 714-754-5636

RECOMMENDATION:

1. Give first reading - to be read by title only and waive further reading - of the proposed Ordinance (Attachment 1) amending Chapter V of Title 8 and Section 12-20 of Title 12 of the Costa Mesa Municipal Code relating to smoking in city parks, sports fields and community gardens.

The Proposed Ordinance is scheduled for the second reading and public hearing at the November 15, 2011 Council meeting.

BACKGROUND:

At a previous Youth Sports Council meeting attended by several representatives of the City's youth and adult sports groups, the issue regarding increased smoking at the local sports fields was discussed. Individuals at the meeting stated that they have observed an increase in the trash left by individuals who smoke at these facilities. The Youth Sports Council members requested a smoking ban at City-owned athletic facilities be brought to the Parks and Recreation Commission for consideration.

An amendment to the City's Municipal Code (CMMC) is needed to enact a smoking ban at City-owned athletic facilities since the Code does not provide for a smoking ban for outdoor facilities. Currently, the CMMC, Title 8, Chapter V, Section 8-131 (Attachment 2) prohibits smoking in all City-owned and operated public facilities. The CMMC defines public facility as "any building, structure or room within a building or vehicle enclosed by a roof and four (4) walls....." This definition excludes outdoor public facilities.

State law (CA Gov't Code Sec. 7596 to 7598 (2003)) currently prohibits smoking by employees and members of the public in buildings owned or leased by the state, a county, a city, a city and county, or a California Community College district or within 20 feet of a main exit, entrance, or operable window of these buildings. The California Health and Safety Code Section 104495(6b) prohibits smoking within 25 feet of a playground or tot lot sandbox area.

At the May 25, 2011 Parks and Recreation Commission meeting, the Commission voted to recommend to the City Council the adoption of an ordinance to implement a smoking ban at the City-owned athletic facilities and the two community gardens as recommended by staff; and to expand the smoking ban to include a 50-foot radius of all City parks with playground equipment intended for children under the age of nine, (Commission minute excerpt, Attachment 3).

ANALYSIS:

The overall purpose of a smoking ban is to provide for the public health, safety, and welfare by discouraging the use of tobacco around non-tobacco users; to protect children from exposure to smoking and tobacco; to reduce the potential for children to associate smoking and tobacco with a healthy lifestyle; and to protect the public from smoking and tobacco-related litter and pollution.

The World Health Organization considers smoke-free laws to have an influence to reduce demand for tobacco by creating an environment where smoking becomes increasingly more difficult and to help shift social norms away from the acceptance of smoking in everyday life. Along with tax measures, cessation measures, and education, smoking ban policy is currently viewed as an important element in lowering smoking rates and promoting public health. When correctly and strictly implemented it is seen as one important policy agenda goal to change human behavior away from unhealthy behavior and towards a healthy lifestyle. *“Who Framework Convention on Tobacco Control.” World Health Organization (17 Jun. 2009).*

The cities of Irvine, Laguna Hills, and Fountain Valley have all implemented smoking bans at their athletic facilities, some parks and other outdoor facilities. Several beach communities such as Newport Beach, Long Beach and Huntington Beach have banned smoking at City beaches.

The three City athletic field sites (the Jack Hammett Sports Complex, TeWinkle Athletic Complex, and Luke Davis Field at Lions Park) are proposed for a smoking ban to protect youth and the public from exposure to second-hand smoke, an unhealthy lifestyle, and to reduce the amount of clean-up required after sports events. A smoking ban at the athletic field sites will bring City-owned fields up to the same standard as School District fields. Staff recommended to the Parks and Recreation Commission to also include a smoking ban for the two Community Gardens due to the highly combustible plant material at the gardens. In addition, the Parks and Recreation Commission recommended the smoking ban be expanded to include a 50-foot radius of City parks with playground equipment intended for children under the age of nine (9). The City has twenty-nine (29) parks, twenty five (25) of which have playground areas. All playground areas and tot lots are rated by age in two age categories of 2-5 years and 5-12 years. Therefore, all playground and tot lot sites would qualify for the smoking prohibition. Since only four (4) parks do not have playground areas or tot lot sites, the proposed ordinance would include all 29 City parks, and the Balearic Community Center tot lot area, for consistency and ease of enforcement. Should the 50-foot radius limit encroach onto private property, the smoking ban shall not apply to the private property. In addition, where the 50-foot limit includes the public sidewalk and street, those using the public travel ways in route to a destination are exempt from the smoking prohibition.

The proposed ordinance would amend the CMMC as follows:

1. Prohibit smoking:

- Within all City-owned buildings, facilities and motor vehicles.
- Within the fenced areas, including parking lots if not within the fenced areas, of City owned sports fields.
- Within the fenced areas of the City owned Community Gardens.
- Within fifty (50) feet of any City park. Parking lots are included in the Park boundaries.

2. Identifies smoking in the prohibited areas as “disorderly conduct”.

Enforcement of a smoking ban at the proposed sites would be the responsibility of police officers and park rangers. Violations would be an infraction with the fines set by the CMMC as follows:

Section 1-33(a) “Infraction: *Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or designated nonsafety employees, who shall be designated by separate resolution pursuant to the provisions of California Penal Code Section 836.5. Any person convicted of an infraction under the provisions of this Code shall be punishable either by fines as is specified in the currently adopted Uniform Infraction Bail Schedule used by the Orange County Municipal Courts, or where no fine is specified therein by:*

1. *A fine not exceeding one hundred dollars (\$100.00) for a first violation;*
2. *A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within one (1) year;*
3. *A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one (1) year.”*

Should the City Council implement a smoking ban at the sites recommended, City staff will focus on educating the field users and the public about the smoking prohibitions for a suggested “grace period” of 60 days. During the grace period, City staff will install the needed smoking ban signs since violation citations can only be enforced if signs that explain the smoking restrictions are posted.

ALTERNATIVES CONSIDERED:

1. The City Council could receive and file the report and not implement the outdoor smoking prohibition.
2. The City Council could choose to exempt certain City-owned public outdoor facilities from the smoking prohibition, or exempt portions of the parks, parking lots or sports facilities.
3. The City Council could include additional or different City-owned facilities.

FISCAL REVIEW:

The fiscal impact to the City will be approximately \$2,500 for the purchase and installation of 50 park signs, posts and anchor hardware. The funds needed for the signs are not included in the City's 2011-2012 Budget.

LEGAL REVIEW:

Legal has prepared and reviewed the attached Ordinance.

CONCLUSION:

Staff recommends that the City Council give first reading to the proposed ordinance which prohibits smoking and the use of tobacco and tobacco related products at City-owned athletic fields, the Community Gardens, and within 50-feet of all City Parks.

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ATTACHMENTS: [1. Proposed Ordinance](#)
[2. Municipal Code Title 8, Chapter V, Section 8-131](#)
[3. Minute Excerpt of Park and Recreation Commission May 25, 2011 meeting](#)