



Agenda Item

9-D

Approvals:

City Manager

Dept. Head

Attorney

Finance

AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: August 21, 2018

Department: City Attorney
Prepared By: City Attorney

Subject: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTERS 8.64 TO PROHIBIT SMOKING IN BEACH PARKING LOTS, PUBLIC PARK PARKING LOTS, AND OPEN SPACE; 10.28 TO REQUIRE THAT PUBLIC PARKING LOTS BE USED ONLY FOR PARKING; AND 10.40 TO REQUIRE THAT PARKING METER ZONES BE USED ONLY FOR PARKING.

Fiscal Impact: None.

Summary: Staff recommends the City Council consider an ordinance amending the San Clemente Municipal Code to prohibit smoking in beach parking lots, public park parking lots, and open space; and to require that public parking lots and parking meter zones be used only for purposes of parking.

Background: The City, by virtue of the police powers delegated to it by the California Constitution, is authorized to adopt policies to promote the health, safety, and general welfare of its residents. This authority includes the regulation of certain disorderly conduct within the City.

On February 16, 2016 the City Council voted to adopt Ordinance No. 1618, which prohibited smoking on public beaches and public trails.

Discussion: The proposed ordinance promotes health, safety, and general welfare by further prohibiting smoking in public places and by ensuring that parking spaces are used only for parking purposes.

Smoking Prohibition

San Clemente Municipal Code, chapter 8.64 prohibits smoking in a number of places within the City:

- Elevators (§ 8.64.030),
- Hospitals and health care facilities (§ 8.64.040),
- Meeting rooms (§ 8.64.050),
- Theaters and auditoriums (§ 8.64.060),
- Public restrooms (§ 8.64.070),
- Eating establishments (§ 8.64.080),
- Beaches (§ 8.64.140),
- Designated coastal canyons (§ 8.64.150),

- Designated inland canyons (§ 8.64.160),
- Public trails (§ 8.64.170), and
- Public parks (§ 8.64.180).

This proposed ordinance would:

- Amend section 8.64.140 to prohibit smoking at parking lots adjacent to or with direct access to public beaches;
- Amend section 8.64.180 to prohibit smoking at parking lots adjacent to or with direct access to public parks (the current ordinance exempts parking lots from the smoking prohibition for parks); and
- Add section 8.64.190 to prohibit smoking on any lands in the City for which the Zoning Code, the General Plan, or a specific plan designates as public or private open space.

Parking Lot Use

The San Clemente Municipal Code establishes several public parking lots (§ 10.28.240) and parking meter zones (§ 10.40.010).

For private parking lots in residential zones, the Zoning Code requires that the lot be used only for parking. (SCMC, § 17.28.220(C)(8).) However, the Code provides no such restriction for public parking lots.

The proposed ordinance would:

- Add section 10.28.245 to require that public parking lots be used only for purposes of parking, and
- Add section 10.40.015 to require that parking spaces in parking meter zones be used only for purposes of parking.

Environmental Review:

This action would not, in itself, in any way impact or alter the physical environment. Accordingly, this action is not a "project" under State CEQA Guidelines section 15378, and exempt from environmental review under State CEQA Guidelines section 15061(b)(3) (the general-rule exemption).

Recommended Action:

STAFF RECOMMENDS THAT the City Council introduce an ordinance amending the San Clemente Municipal Code to prohibit smoking in beach parking lots, public park parking lots, and open space; and to require that public parking lots and parking meter zones be used only for purposes of parking.

Attachments: 1. Ordinance.

Notification: Not applicable.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTERS 8.64 TO PROHIBIT SMOKING IN BEACH PARKING LOTS, PUBLIC PARK PARKING LOTS, AND OPEN SPACE; 10.28 TO REQUIRE THAT PUBLIC PARKING LOTS BE USED ONLY FOR PARKING; AND 10.40 TO REQUIRE THAT PARKING METER ZONES BE USED ONLY FOR PARKING.

WHEREAS, smoking is hazardous to health. Numerous studies have shown that second-hand smoke is a significant public health hazard. The U.S. Environmental Protection Agency has classified second-hand smoke as a Group A carcinogen, the most dangerous class of carcinogen. Smoking in public parks endangers children and others by exposing them to second-hand smoke. Moreover, children and youth who observe smoking and tobacco use in public parks may model the behavior;

WHEREAS, Southern California communities such as San Clemente are continually faced with the threat of wildfires, which cause substantial property losses;

WHEREAS, the City Council has determined that banning smoking in beach parking lots, public park parking lots, and lands designated as open space in the City is necessary to protect the health, safety, and welfare of San Clemente residents and visitors; and

WHEREAS, the City desires to amend the San Clemente Municipal Code to prohibit smoking at beach parking lots, public park parking lots, and lands designated as open space.

WHEREAS, the City, by virtue of the police powers delegated to it by the California Constitution, is authorized to adopt policies to promote the health, safety, and general welfare of its residents;

WHEREAS, the City operates public parking lots as established in San Clemente Municipal Code, section 10.28.240 and parking meter zones as established in section 10.40.010;

WHEREAS, City staff have observed such parking facilities used for purposes other than parking vehicles, such as tailgating and storage of personal property;

WHEREAS, such uses occupy and limit availability the much-needed parking supply in the City and alter pedestrians and vehicle paths in parking lots, thereby creating hazards;

WHEREAS, the City Council has determines that ensuring that public parking lots and parking spaces in parking meter zones be used only for purposes of parking;

and

WHEREAS, the City Council desires to amend the San Clemente Municipal Code to require that public parking lots and parking spaces in parking meter zones be used only for purposes of parking.

NOW, THEREFORE, the City Council of the City of San Clemente does ordain as follows:

Section 1. Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Chapter 8.64, Smoking, Code Amendment. San Clemente Municipal Code title 8, Health and Safety, chapter 8.64, Smoking, sections 8.64.140, Beaches—Smoking Prohibited, and 8.64.180, Public parks—Smoking prohibited, are hereby amended and 8.64.190, Open Space—Smoking Prohibited, is hereby added as follows (additions shown in underline, deletions shown in ~~strikeout~~):

8.64.140 - Beaches—Smoking prohibited.

No person shall smoke within the boundaries of any public beach, including public walkways and beach access points, such as stairs to the beach, and strands adjoining beach areas, or the municipal pier, or parking lots adjacent to or with direct access to any public beach, except in certain outdoor locations and patio areas, if any, that the City Council specifically designates by resolution as temporary or permanent smoking areas.

8.64.180 - Public parks—Smoking prohibited.

No person shall smoke in any public parks, or parking lots adjacent to or with direct access to any public park, in the City, whether such public parks are in existence as of the date this section is added to the code or are later established or created. The public parks located in the City as of the date this section is added to the code are depicted in Exhibit A to the appendix of this chapter. ~~This prohibition shall not apply to public parking lots within or adjacent to public parks.~~

8.64.190 - Open space—Smoking prohibited.

No person shall smoke in any lands in the City for which Title 17, Zoning, the General Plan, or a specific plan designates as public or private open space, whether such designations are in existence as of the date this section is added to the code or are later established or created.

Section 3. Chapter 10.28, Stopping, Standing and Parking, Code Amendment. San Clemente Municipal Code, title 10, Vehicles, chapter 10.28, Stopping, Standing and Parking, is hereby amended to add section 10.28.245, Use of

Off-Street Parking Lots Owned or Controlled by City, as follows (additions shown in underline, deletions shown in ~~strikeout~~):

10.28.245 - Use of off-street parking lots owned or controlled by City.

Any parking lot owned or controlled by the City, as established in Section 10.28.240, shall be used only for purposes of parking vehicles in a manner consistent with this Title. Any other use is prohibited, unless otherwise provided by this code or by resolution of the City Council.

Section 4. Chapter 10.40, Parking Meters, Code Amendment. San Clemente Municipal Code, title 10, Vehicles, chapter 10.40, Parking Meters, is hereby amended to add section 10.40.015, Use of Parking Spaces in Parking Meter Zones, as follows (additions shown in underline, deletions shown in ~~strikeout~~):

10.40.015 - Use of parking spaces in parking meter zones.

Any parking space in parking meter zone, as established in section 10.40.010, shall be used only for purposes of parking vehicles in a manner consistent with this Title. Any other use is prohibited, unless otherwise provided by this code or by resolution of the City Council.

Section 5. Existing Code Provisions. All existing provisions of the Municipal Code that are repeated herein are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

Section 6. CEQA. The City Council finds that this ordinance is not subject to the requirements of California Environmental Quality Act ("CEQA") for the following reasons:

- A. This ordinance is not "project" within the meaning of section 15378 of the State CEQA Guidelines, because it has no potential for resulting in direct or indirect physical change in the environment.
- B. This Ordinance is exempt under section 15061(b)(3), the general rule exemption, because it can be seen with certainty that there is no possibility that this code amendment will have a significant effect on the environment.

The City Council, therefore, directs that a Notice of Exemption for this ordinance be filed with the County Clerk of the County of Orange in accordance with State CEQA Guidelines.

Section 7. Publication. The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for

and against the same, in the Office of the City Clerk in accordance with California Government Code, section 36933.

Section 8. Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 100 Avenida Presidio, San Clemente, CA 92672.

Section 9. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

APPROVED AND ADOPTED this ____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of
San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY