

Council Meeting of
February 15, 2011

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: Parks and Recreation Commission and Community Services – Adopt
ORDINANCE amending the Torrance Municipal Code banning smoking in
City parks.**

RECOMMENDATION

Recommendation of the Parks and Recreation Commission and the Community Services Director that City Council adopt an ORDINANCE amending the Torrance Municipal Code banning smoking in City parks and approve an ordinance summary for publication.

Funding

Not Applicable.

BACKGROUND/ANALYSIS

On May 12, 2010, the Parks and Recreation Commission approved the signing of a “Letter of Support” to prohibit smoking in city parks. At a City Council meeting later in May 2010, staff was instructed to bring this item forward as a public hearing in order to create an ordinance to prohibit smoking in city parks.

At the City Council’s request, the City Attorney’s Office reviewed this issue to determine if it needed to come back to the City Council as a Public Hearing or as a City Council agenda item. The need for a more in depth review of this issue was due to the fact that the City already has a “No Smoking” Ordinance on our city beaches; so, theoretically, this could amend an existing ordinance. The research provided by the Attorney’s Office illustrated many more issues still needed to be clarified and addressed before bringing it forward to the City Council.

On August 11, 2010, the Parks and Recreation Commission assigned this task to the Open Space Committee of the Parks and Recreation Commission. The Open Space Committee met on September 8, 2010, September 29, 2010, and November 10, 2010, to review and develop a “No Smoking” Ordinance in City Parks that could be brought back to the Parks and Recreation Commission.

This Committee conducted research in the following assignment areas:

1. Review the state law regarding this issue.
2. Review the current ordinance in Torrance that bans smoking on City beaches.
3. Review other examples of smoking ordinances passed by Los Angeles County and other neighboring cities.
4. Define areas/open spaces/parks/facilities that will fall under this ordinance.
5. Approve the final revision of the draft ordinance prepared by the City Attorney's Office.

The Open Space Committee presented their findings to the Parks and Recreation Commission on December 8, 2010, who in turn approved the draft ordinance for consideration by the City Council (Attachments A and B).

This Ordinance states that any person who violates this section is guilty of an infraction and subject to a fine of up to \$100 for a first violation, \$200 for a second violation within one year, and \$500 for a third or subsequent violation within one year. Through its enhanced public outreach channels, the Torrance Police Department will educate the public regarding the new ordinance. In addition to the education outreach, the police department will also take enforcement action when appropriate

Lastly, Ms. Joan Waddell, Program Director for the NCADD/South Bay attended several of these meetings and stated that she has a funding source that could provide the "No Smoking" signage at no cost to the city. In order for this ordinance to be enforced, this signage must be installed at each of our city parks.

Respectfully submitted,

PARKS & RECREATION COMMISSION

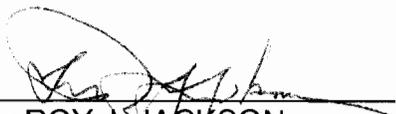


 KERI GILBERT
 Chairperson



 JOHN JONES
 Community Services Director

NOTED:



 LeROY J. JACKSON
 City Manager

- Attachments:
- A. Parks and Recreation Commission Item 7B from 12-8-10.
 - B. Ordinance Related to Smoking on Beaches and In Parks.
 - C. Ordinance Summary

AO:JJ:tlk:adminsvcs\councilitems\2011\nosmokinginparks 02-15-11ci

ATTACHMENT A

For Commission Meeting:
December 8, 2010

TO: PARKS AND RECREATION COMMISSION

FROM: TODD HAYS, CHAIRPERSON, OPEN SPACE COMMITTEE

SUBJECT: RECOMMENDATION TO APPROVE A "NO SMOKING" ORDINANCE IN CITY PARKS

RECOMMENDATION

Recommendation of the Open Space Committee and the Community Services Director that the Parks and Recreation Commission approve a "No Smoking" Ordinance in City Parks.

BACKGROUND/ANALYSIS

On May 12, 2010, your honorable body approved the signing of a "Letter of Support" to prohibit smoking in city parks. At a City Council meeting in late May, staff was instructed to bring this item forward as a public hearing in order to create an ordinance to prohibit smoking in city parks.

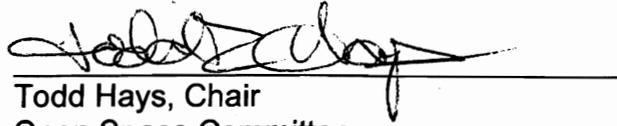
At the City Council's request, staff requested the City Attorney's Office to review this issue to determine if it needed to come back to the City Council as a Public Hearing or as a City Council agenda item. The need for a more in depth review of this issue was due to the fact that the City already has a "No Smoking" Ordinance on our city beaches; so, theoretically, this could be just an amendment to the existing ordinance.

After some very detailed research by the Attorney's Office, staff met to discuss their findings and discovered that many more issues still needed to be clarified and addressed before bringing it forward to the City Council.

On August 11, 2010, an agenda item was brought before the Parks and Recreation Commission asking for direction as to how they would like staff to address the issue of reviewing and developing a "No Smoking" Ordinance in City Parks. At this meeting, the Commission realized that several issues still needed to be addressed before they could make a final decision on approval of a "No Smoking" Ordinance in City Parks and assigned this task to the Open Space Committee of the Parks and Recreation Commission.

The Open Space Committee met on September 8th, September 29th, and November 10th to review and develop a "No Smoking" Ordinance in City Parks that could be brought back to the full body of the Parks and Recreation Commission. This Committee conducted the following assignments to come to their conclusions: 1) reviewed the state law regarding this issue; 2) reviewed the current ordinance in Torrance that bans smoking on City beaches; 3) reviewed other examples of smoking ordinances passed by Los Angeles County and other neighboring cities; 4) defined areas/open spaces/parks/facilities that will fall under this ordinance; and 5) approved the final revision of the draft ordinance prepared by the City Attorney's Office. Additionally, Ms. Joan Waddell, Program Director for the NCADD/South Bay attended several of these meetings and stated that she has a funding source that could provide the "No Smoking" signage at no cost to the city. In order for this ordinance to be enforced, this signage must be installed at each of our city parks.

Respectfully submitted,



Todd Hays, Chair
Open Space Committee

CONCUR:



Robert Carson
Park Services Manager



John Jones
Community Services Director

Attachments: A. Draft of a "No Smoking" Ordinance in City Parks

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE REPEALING AND REPLACING SECTION 1 OF ARTICLE 1 OF CHAPTER 9 OF DIVISION 4, AMENDING SECTION 26 OF ARTICLE 3 OF CHAPTER 4 OF DIVISION 4, AND ADDING A NEW SECTION 11 TO ARTICLE 2 OF CHAPTER 9 OF DIVISION 4 OF THE TORRANCE MUNICIPAL CODE RELATING TO SMOKING ON BEACHES AND IN PARKS

The City Council of the City of Torrance does ordain as follows:

SECTION 1

The City Council of the City of Torrance finds, determines and declares as follows:

- A. Various national studies have identified smoking of cigarettes and use of other tobacco products as a significant health risk;
- B. Second-hand smoke has been shown to endanger non-smokers who are exposed to it; The U.S. Environmental Protection Agency has classified second-hand smoke as a Group A Carcinogen (the most dangerous group);
- C. Litter from cigarette butts does not break down readily and constitutes a significant portion of park litter. Discarding cigarettes and cigar butts onto the ground in a park is unsightly, unclean, and particularly hazardous to small children who handle and sometimes ingest them;
- D. Children and youths who observe smoking and tobacco use in public parks may model the behavior; and
- E. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) in that it has no potential to have a significant effect on the environment.

SECTION 2

That Section 1 of Article 1 of Chapter 9 of Division 4 is repealed and replaced in its entirety with the following:

"SECTION 49.1.1. – DEFINITIONS.

For the purpose of this Chapter, certain words are defined as follows:

- a) "Director" means the Community Services Director.
- b) "Park" means a park, playground, swimming pool, playing field, median parkway in a street right-of-way, court, restroom and any other area or facility owned or leased by the City, or for which the City has the right to possession, which is devoted to active or passive recreation uses except the beach as defined in Section 44.1.3 of this Code. The definition of park includes the grassy areas and walkways surrounding Benstead Plunge, all walkways adjacent to a park, and parking lots associated with a park.

SECTION 3

That Section 26 of Article 3 of Chapter 4 of Division 4 is amended to read as follows:

"SECTION 44.3.26 – TOBACCO PRODUCTS

- (a) A person shall not enter, be or remain on any beach while using or consuming any tobacco product.
- (b) Any person who violates this section is guilty of an infraction and subject to a fine of up to \$100 for a first violation, \$200 for a second violation within one year, and \$500 for a third or subsequent violation within one year. Punishment under this section does not preclude punishment pursuant to California Health and Safety Code Section 13002, Section 374.4 of the California Penal Code, or any other provision of law proscribing the act of littering."

SECTION 4

That a new Section 11 is added to Article 2 of Chapter 9 of Division 4, entitled SMOKING PROHIBITED IN PARKS. This section reads in its entirety as follows:

"SECTION 49.2.11 SMOKING PROHIBITED IN PARKS.

- (a) For the purposes of this section, the following definitions govern:

"Smoke or smoking" means the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, tobacco, or any other weed or plant.

“Cigar” means the same as defined in California Health and Safety Code Section 104550.

“Cigarette” means the same as defined in California Health and Safety Code Section 104556.

- (b) Smoking a pipe, cigar, or cigarette in any park, or using or consuming any tobacco-related product is prohibited and is unlawful, unless it is done by an actor for filming purposes, pursuant to a permit issued by the City of Torrance.
- (c) Disposing of pipe residue, cigar butts, cigarette butts or any other tobacco-related waste in a park is prohibited and is unlawful.
- (d) It is unlawful for any person to intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this section.
- (e) Any person who violates this section is guilty of an infraction and subject to a fine of up to \$100 for a first violation, \$200 for a second violation within one year, and \$500 for a third or subsequent violation within one year. Punishment under this section does not preclude punishment pursuant to California Health and Safety Code Section 13002, Section 374.4 of the California Penal Code, or any other provision of law proscribing the act of littering.

SECTION 5

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City inconsistent with this ordinance, to the extent of the inconsistencies and no further, are repealed.

SECTION 6

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 7

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED the __ day of _____, 2011.

ADOPTED AND PASSED this __ day of _____, 2011.

Frank Scotto, Mayor

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan, Assistant City Attorney

ORDINANCE NO. _____

SUMMARY

On _____, 2011, the City Council of the City of Torrance adopted Ordinance No. _____, which adds Section 49.2.11 to the Torrance Municipal Code, making it an infraction to smoke in city parks; the ordinance also amends Section 44.3.26 of the Torrance Municipal Code to make smoking on city beaches an infraction.

*****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against.*****