



Beverly Hills City Council Liaison / Health and Safety Commission Liaison Committee will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

**CITY HALL
455 North Rexford Drive
4th Floor Conference Room A
Beverly Hills, CA 90210**

**Tuesday, April 9, 2019
10:00 AM**

AGENDA

- 1) Public Comment**
 - a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.
- 2) Health and Safety Commission Recommendations Regarding Tobacco Sales Ban Ordinance**
- 3) Discussion of No-Smoking Signage Designs and Placement**
- 4) Adjournment**

A handwritten signature in black ink, appearing to read "Lourdes Sy-Rodriguez".

Lourdes Sy-Rodriguez, Assistant City Clerk

Posted: April 5, 2019

A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW IN THE LIBRARY AND CITY CLERK'S OFFICE.




In accordance with the Americans with Disabilities Act, Conference Room A is wheelchair accessible. If you need special assistance to attend this meeting, please call the City Manager's Office at (310) 285-1014 or TTY (310) 285-6881. Please notify the City Manager's Office at least twenty-four (24) hours prior to the meeting if you require captioning service so that reasonable arrangements can be made.



CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Health and Safety Commission Liaison Committee

FROM: Logan Phillippo, Policy & Management Analyst 

DATE: April 9, 2019

SUBJECT: Health and Safety Commission Recommendations Regarding Tobacco Sales Ban Ordinance

ATTACHMENTS: 1. March 25, 2019 Health and Safety Commission Staff Report

INTRODUCTION

The Health and Safety Commission has voted on key provisions for a draft ordinance that would ban the sale of all tobacco products in Beverly Hills. Staff is providing an update to the City Council Liaisons regarding these recommendations, which are scheduled to be presented and discussed at the May 7, 2019 Study Session.

DISCUSSION

At the February 5 Study Session, City Council directed Staff and the Health and Safety Commission to develop and recommend a policy that would ban the sale of all tobacco products in Beverly Hills. The Commission discussed the topic on February 25 and March 25.

On March 25, more than 140 members of the public attended the Commission meeting and the Commission heard public comment from 57 speakers. To date, the City has received 162 letters from the public on this topic. 9 letters have expressed general support for and 7 letters have expressed general opposition to a tobacco sales ban in concept. 146 of these letters, however, have advocated for an exemption (to any future ban) for all cigar lounges in the city. There are three cigar lounges Staff has identified from a list of active permitted retailers: Grand Havana Room, Buena Vista Cigar Club and Nazareth's Fine Cigars. While there were several individuals who submitted letters or spoke in support of Buena Vista Cigar Club or cigar lounges in general, the vast majority of letters and speakers specifically referenced Grand Havana Room.

Tobacco Product Definition

The Beverly Hills Municipal Code ("BHMC") defines a tobacco product as including:

- a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco;
- b) Any electronic cigarette; and
- c) **Any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.**

The Municipal Code definition of a tobacco product does not include a drug, device, or combination product authorized for sale by the U.S. Food & Drug Administration as a tobacco use cessation product such as nicotine patches, gum or lozenges.

If the City moves forward with a ban on the sale of tobacco products, the inclusion of Subsection C, above, may have some unintended consequences. For example, lighters, ashtrays and cigar papers are all reasonably expected to be used with a tobacco product. However, because these products can come in many various forms (i.e. a cigarette lighter versus a generic lighter, an ashtray versus a generic dish), this clause might present several unintended code enforcement complications where it is unclear whether an item being sold constitutes a tobacco product.

Modifying Subsection C to read **"Tobacco and Electronic Cigarette Paraphernalia"** could add clarity to the items banned from sale. This term is already more narrowly defined in the Municipal Code. "Tobacco and Electronic Cigarette Paraphernalia" is defined as including: cigarette papers or wrappers, pipes, electronic cigarettes and their component parts, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco or products prepared from tobacco.

Commission Recommendations

The Commission has discussed key policy recommendations and on March 25 voted on key policy provisions to include in a draft ordinance. These include:

- A carve out for all existing cigar lounges, as of March 25, 2019, in perpetuity; (4-1 vote)
- A carve out for all hotels, existing and new, in perpetuity; (3-2 vote)
- Effective January 1, 2020:
 - Hotels may only sell to guests of the same hotel;
 - Pharmacies shall not sell tobacco products. (5-0 vote)
- Effective January 1, 2021:
 - Gas stations, convenience stores, liquor stores and newsstands shall not sell tobacco products (5-0 vote);
- One year after the effective date of any City Council adopted ordinance:
 - Grocery stores and any other permitted retailer not otherwise enumerated in a category above shall not sell tobacco products (5-0 vote); and
- An immediate moratorium on the issuance of new permits, except for hotels, which have been carved out (5-0 vote).

The Commission voted in unanimous support for all but two of the above-listed provisions.

1. Regarding a carve out for all existing cigar lounges in perpetuity, Commissioner Baker did not vote in support, indicating that existing cigar lounges could continue to promote the same type of comradery and serve as a space for closing business deals without selling tobacco products.
2. Regarding a carve out for all hotels, existing and new, in perpetuity, Commissioners Demeter and Baker did not vote in support. Commissioner Baker indicated that there was no evidence presented on how tourism would suffer. Commissioner Demeter indicated that hotels do not fully depend (as a Cigar lounge would) on revenue from tobacco products and as such should not be subject to a carve out. Chair Ross voted yes on a motion in support of the carve out for hotels in perpetuity, however, will request that the Commission meet to rescind and annul this recommendation. If the Commission

does agree to rescind and annul the motion, a Commission Special Meeting to reconsider a carve out for hotels is tentatively scheduled for April 29.

Hardship Exemption

Any ordinance should include a provision that allows for a "hardship exemption". This provision is necessary to mitigate any challenges to a ban and offer businesses an opportunity to demonstrate the extent to which they are affected by an impending ban. At least six months prior to the end of the phase-in period, the permitted tobacco retailer/applicant would submit a completed application to the City requesting an extension of the permit. In determining whether to grant the hardship exemption, the hearing officer would consider, among other factors, the following information:

- (1) The term of the requested extension;
- (2) The percentage of the retail sales over the last three years that have been derived from tobacco products;
- (3) The amount of investment in the business;
- (4) The present actual and depreciated value of any business improvements dedicated to the retail sale of tobacco products;
- (5) The applicable Internal Revenue Service depreciation schedule or functional non-confidential equivalent;
- (6) The remaining useful life of the business improvements that are dedicated to the sale of tobacco products;
- (7) The remaining lease term, if any;
- (8) The ability of the tobacco and electronic cigarette retailer to sell other products; and
- (9) The opportunity for relocation of the business and the cost of relocation.

The hearing officer would determine whether to approve or deny the request. If granting the request, the hearing officer would also determine the length of time of the hardship exemption (i.e. how long the business would be permitted to continue selling tobacco products). The hearing officer's decision could be appealed to City Council.

Permits Non-Transferable

BHMC 4-2-2107 already provides: "a tobacco and electronic cigarette retailer permit is nontransferable and is valid only for the person(s) and location specified in the permit application. If a permittee changes business location, that permittee, prior to the permits expiration, must obtain a new permit prior to acting as a tobacco and electronic cigarette retailer at the new location. If a business permitted to conduct tobacco and electronic cigarette retailing is sold, the new owner must obtain a permit for that location before acting as a tobacco and electronic cigarette retailer."

Because permits are non-transferable and the City would no longer accept new permit applications, an ordinance should also allow for a hardship exemption from this non-transfer provision. As such, the permitted tobacco retailer would be required to demonstrate that the imposition of the non-transferability clause, above, would constitute an undue hardship on their business. For example, the death of a family-member whose name was originally listed on the permit application might constitute an undue hardship. Or, a landlord with knowledge that a permitted tobacco retailer cannot transfer permits to new locations, might attempt to increase rent substantially at a permitted location above fair market value, recognizing that a permitted

tobacco retailer would have no options to maintain a permit and seek alternate business locations. Staff is finalizing the details of this section.

Enforcement

For existing permitted retailers, BHMC 4-2-2115 already sets forth the enforcement provisions of the existing City's tobacco and electronic cigarette retailer permitting regulations. The proposed ordinance would be subject to these same enforcement provisions. Additionally, the Municipal Code includes a provision for compliance monitoring that allows a "youth decoy" to participate in compliance checks supervised by a peace officer or code enforcement official of the City. On an annual basis, the Police Department conducts sting operations with a youth decoy to monitor compliance.

The City would continue enforcing existing permits in this manner with already established enforcement mechanisms. This includes escalating fines and civil penalties. A first violation is \$250. A second violation within a five-year period is \$750 and suspends the retailer permit for 90 days. A third violation within a five-year period is \$1,000 and revokes the permit. If a non-permitted retailer were to sell tobacco products, enforcement would default to the general provisions of the Municipal Code whereby at the discretion of the City Attorney or City Prosecutor, violations could be prosecuted as infractions or misdemeanors. In addition, the City could impose administrative penalties pursuant to BHMC 1-3-3. The City could also seek to declare the property a public nuisance or bring a civil action against the business.

Outreach

At the February 25 Commission Meeting, Staff introduced a framework for policy discussions on developing/exploring a policy to ban the sale of all tobacco products in Beverly Hills. This included a planned series of four Commission meetings ending on May 20 and a presentation of Commission recommendations to City Council at the first Study Session in June. Mayor Mirisch has since directed Staff to present Commission recommendations to City Council on May 7. Staff subsequently revised the timeframe and provided notice to all appropriate stakeholders.

Staff has continuously provided updates by phone, email, and letter to tobacco retailers and those who have submitted their contact information on public comment cards or emails/letters to the City. Staff has also updated the City's website, including a listing of all relevant City Council and Health and Safety Commission reports and meeting videos. Staff has also coordinated with business community stakeholders, including the Chamber of Commerce and Conference and Visitors Bureau. Upcoming planned outreach includes Staff attendance to discuss the policy at the Chamber of Commerce Government Affairs Committee meeting on April 14, 2019.

RECOMMENDATION

Staff is updating the City Council Liaisons regarding the Commission recommendations, which are scheduled to be presented and discussed at the May 7 Study Session. Staff requests direction from the City Council Liaisons on whether to present a draft ordinance for introduction on the May 7 Consent Agenda, immediately following Study Session discussions or the May 21 Consent Agenda, which would allow for time to incorporate any City Council direction or modifications to the draft ordinance. Because the Commission's recommendations include an immediate moratorium on the issuance of new tobacco retailer permits, Staff also requests direction on whether to present an urgency ordinance.

Attachment 1



CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: Health and Safety Commission

FROM: Logan Phillippo, Policy & Management Analyst

DATE: March 25, 2019

SUBJECT: Study of Banning the Sale of All Tobacco Products in Beverly Hills

ATTACHMENTS: 1. Outreach/notice letter dated March 15, 2019
2. Draft ordinance
3. Public letters/input received **ATTACHMENTS NOT INCLUDED**

INTRODUCTION

At the February 25 Commission Meeting, Staff introduced a framework for policy discussions on developing/exploring a policy to ban the sale of all tobacco products in Beverly Hills. This included a planned series of four Commission meetings ending on May 20 and a presentation of Commission recommendations to City Council at the first Study Session in June. Mayor Mirisch has requested the Staff present Commission recommendations to City Council at the first Study Session in May, anticipated to be May 7.

Staff has revised the timeframe and, after having polled Commissioners' availability for other potential meeting dates, recommends the Commission discuss and vote on key policy points at this March 25 Commission meeting. Staff has provided notice to all appropriate stakeholders.

TOBACCO PRODUCT DEFINITION

The Beverly Hills Municipal Code ("BHMC") defines a tobacco product as including:

- a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco;
- b) Any electronic cigarette; and
- c) **Any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.**

The Municipal Code definition of a tobacco product does not include a drug, device, or combination product authorized for sale by the U.S. Food & Drug Administration as a tobacco use cessation product such as nicotine patches, gum or lozenges.

If the City moves forward with a ban on the sale of tobacco products, the inclusion of Subsection C, above, may have some unintended consequences. For example, lighters, ashtrays and cigar papers are all reasonably expected to be used with a tobacco product. However, because these products can come in many various forms (i.e. a cigarette lighter versus a generic lighter,

an ashtray versus a generic dish), this clause might present several unintended code enforcement complications where it is unclear whether an item being sold constitutes a tobacco product.

As such, Staff recommends removing Subsection C of the City's definition of tobacco product. Doing so is consistent with other Municipal Code provisions as it relates to the sale of cannabis products, whereby products containing cannabis are prohibited to be sold, but cannabis accessories (i.e. pipes, water pipes, grinders, etc.) are not prohibited. This approach offers consistency among existing cannabis regulations and eliminates ambiguity.

COMMISSION POLICY QUESTIONS

After having heard City Council inquiries on February 5 and Commission inquiries and areas of interest on February 25, Staff has developed the following policy questions. Staff recommends the Commission evaluate the questions as posed in the table. Relevant details and background information is included in each subsection below.

	Short form	Policy Questions	Options
1	Carve Out	Does the Commission support: a "carve out" for all, some or none of the categories of existing businesses?	ALL/ SOME/ NONE
2	Phase-in Period	What is the appropriate "phase-in period" for existing retailers?	___ YEARS
3	Future/New Permits	Does the Commission support: immediately, upon the effective date of the ordinance, no longer accepting applications for new/future tobacco and electronic cigarette retailer permits?	YES/NO

1. Does the Commission support a "carve out" for all, some or none of the categories of existing businesses?

Staff recommends the Commission answer whether all, some or none of **existing** businesses should be exempted ("carved out") from the ban. An **existing** business would be any retailer that applied for, and was subsequently issued, a tobacco retailer permit prior to the date when the City would no longer accept new permit applications (see Question 3). If the Commission votes yes for a carve out for **some** existing businesses, Staff recommends the Commission refer to the business categories, shown below, and provide direction on which business types should be exempted from the ban.

There are currently 28 establishments with active City-issued tobacco and electronic cigarette retailer permits. Three retailers appear to be cigar lounges. Two are grocery stores, six are gas stations, eight are associated with hotels, and nine consist of convenience stores or pharmacies. The three cigar lounges that sell primarily tobacco products include the Buena Vista Cigar Club, the Grand Havana Room, and Nazareth's Fine Cigars.

Composition of Existing Retailers

Category	Number of Retailers
Cigar lounges	3
Grocery stores	2
Gas stations	6*
Associated with hotels	8
Convenience stores or pharmacies	9
Total	28

**There appears to be two permits associated with one gas station.*

In 2012 there were approximately 45 retailers, but that number has steadily declined to approximately 28 current retailers. 19 of the City's existing tobacco retailers have held permits since 2010, when the City adopted such requirements. One has held a permit since 2011, two since 2012, four since 2015, one since 2017, and one since 2018.

The Commission has previously requested information regarding the fiscal impact on individual businesses that currently sell tobacco products. The Chamber of Commerce and Staff have requested from permitted retailers supportable statistics regarding this question. Limited data exists to measure the sales volume of tobacco products in a manner that could help assess the fiscal impact to an individual business. As such, the City is reliant on self-reported data and other anecdotal evidence as provided by retailers.

Through both public meetings on the topic, business have stated that a ban on tobacco sales would have a negative impact on revenue and have provided various figures during the Public Comment section of the agendas.

Notably, the National Association of Tobacco Outlets ("NATO") has stated that the business model for the average convenience store relies on gasoline sales at the pump and tobacco sales in the store. NATO has also written that tobacco sales account for approximately 36% of all in-store sales [at gas stations]. Further, NATO has written that customers who purchase tobacco products would patronize other stores in adjacent cities—in some cases across the street—resulting in a loss of not only tobacco sales revenue but also revenue from items these customers would have otherwise purchased as part of a larger transaction (gasoline, snacks, beverages, etc.).

Staff has additionally reached out to the American Petroleum and Convenience Store Association ("APCA") to quantify generally tobacco sales at gas stations and convenience stores. APCA has written that local Beverly Hills retailers have already reported a significant drop in foot traffic and overall sales because of the City's recent ordinance banning the sale of flavored tobacco products, which became effective in full on December 21, 2018—however local businesses, to date, have not provided data.

Data from pharmacy chain CVS does provide one indication of fiscal impact. In the fall of 2014, CVS stopped selling all tobacco products in an unprecedented move that gained national attention. According to a February 20, 2017 Forbes Magazine article, CVS said tobacco and related sales amounted to a loss of approximately \$2 billion in annual sales that existed when the chain sold cigarettes. In 2014, the retailer reported \$139.37 billion in sales, indicating that approximately 1.43% of all revenue was generated from tobacco products. This measure does

not prove sales trends of other retailers, or even other pharmacies, as there are several variables among different retailers that are unknown. Nonetheless, this statistic provides one point of reference for the Commission's consideration.

As previously reported, the extent to which a business relies on revenue generated from tobacco sales will vary dependent upon its category and business model. For a large grocery store selling a high volume of varied products, tobacco products might represent a small or even insignificant portion of overall sales. For small businesses such as gift shops or newsstands, tobacco sales might represent a much larger portion of overall sales.

Finally, Staff estimates the availability of tobacco products for sale is fundamental to the business models of three existing businesses categorized as cigar lounges. Staff has received 87 letters (either explicitly referencing the Grand Havana Room or Buena Vista Cigar Club) from the public requesting exemptions for cigar lounges.

2. What is the appropriate "phase-in period" for existing retailers?

The City should allow for an appropriate amount of time before the ban takes effect for existing businesses. For clarity, any phase-in period would start upon the effective date of any ordinance adopted by City Council.

Ordinances typically require a first reading for introduction at a City Council meeting and second reading for adoption at the following City Council meeting. The ordinance then goes into effect **30 days after** the second reading. For example purposes, unless otherwise clearly and unambiguously stated by the Commission, Staff will interpret a "#-year phase-in" as # years after the effective date of the adopted ordinance. In other policy discussions, the Commission has decided on a January 1 date for specific provisions in a new ordinance to become effective. This method simplifies the outreach processes and is generally easier to remember. For example, the Commission may wish a phase-in period to end January 1, 20yy.

Although the extent of the fiscal impact on an individual business is unknown, it is likely that existing permitted tobacco retailers would see some amount of reduced revenue. Furthermore, businesses will also likely have existing inventory. Whether tobacco constitutes 1.43% of all sales, 36% of all sales or any other percentage of sales, Staff recommends the Commission grant an appropriate amount of time before a ban would take effect with regard to existing retailers. An unanticipated and immediate decline in revenue might cause undue hardship on a business.

Representatives from the University of California, San Francisco School of Nursing and the organization Action on Smoking & Health have indicated that the City should take a phased approach in reducing tobacco sales and have suggested a three-to-five year phased strategy. During this time retailers could reformulate their business models, involve new product lines and/or develop new marketing strategies. Such measures would need to be developed, tested and implemented and might also require multiple iterations before each business identifies the best approach. Such changes might not be feasible in a one-or-two-year period, especially for smaller retailers.

Existing retailers would continue to renew permits annually until the end of the phase-in period. At the end of the phase-in period, a retailer would no longer be permitted to sell tobacco products (unless subject to a carve out discussed in Question 1). Any ordinance will include a

provision so that upon the end of the phase-in period, retailers may demonstrate that the loss of their permit would cause undue hardship, which is discussed later in this report.

3. Does the Commission support immediately, upon the effective date of the ordinance, no longer accepting applications for new/future tobacco and electronic cigarette retailer permits?

Public discussions thus far have focused on existing retailers. However, the Municipal Code still allows retailers to apply for and receive new permits. Staff recommends the Commission evaluate the appropriate date when the City will no longer accept new permits, essentially limiting tobacco permits to annual renewals for only **existing** retailers. An existing business would be any retailer that applied for, and was subsequently issued, a tobacco permit prior to the date when the City would no longer accept new permit applications

Staff has posed the question in a "yes or no" format.

A "yes" vote would mean that upon the effective date of the ordinance (30 days after the second reading), the City would not accept new permit applications.

A "no" vote would require the Commission to pose an alternate date (i.e. six months, one year, January 1, 20yy, etc.). The City would accept and issue new permits to tobacco retailers through this date.

HARDSHIP EXEMPTION

Any ordinance should include a provision that allows for a "hardship exemption". This provision is necessary to mitigate any challenges to a ban and offer businesses an opportunity to demonstrate the extent to which they are affected by an impending ban. At least six months prior to the end of the phase-in period, the permitted tobacco retailer/applicant would submit a completed application to the City requesting an extension of the permit. In determining whether to grant the hardship exemption, the hearing officer would consider, among other factors, the following information:

- (1) The term of the requested extension;
- (2) The percentage of the retail sales over the last three years that have been derived from tobacco products;
- (3) The amount of investment in the business;
- (4) The present actual and depreciated value of any business improvements dedicated to the retail sale of tobacco products;
- (5) The applicable Internal Revenue Service depreciation schedule or functional non-confidential equivalent;
- (6) The remaining useful life of the business improvements that are dedicated to the sale of tobacco products;
- (7) The remaining lease term, if any;
- (8) The ability of the tobacco and electronic cigarette retailer to sell other products; and
- (9) The opportunity for relocation of the business and the cost of relocation.

The hearing officer would determine whether to approve or deny the request. If granting the request, the hearing officer would also determine the length of time of the hardship exemption (i.e. how long the business would be permitted to continue selling tobacco products). The hearing officer's decision could be appealed to City Council.

PERMITS NON-TRANSFERABLE

BHMC 4-2-2107 already provides: "a tobacco and electronic cigarette retailer permit is nontransferable and is valid only for the person(s) and location specified in the permit application. If a permittee changes business location, that permittee, prior to the permits expiration, must obtain a new permit prior to acting as a tobacco and electronic cigarette retailer at the new location. If a business permitted to conduct tobacco and electronic cigarette retailing is sold, the new owner must obtain a permit for that location before acting as a tobacco and electronic cigarette retailer."

Because permits are non-transferable and the City would no longer accept new permit applications, staff is recommending that the ordinance also allow for a hardship exemption from this non-transfer provision. As such, the permitted tobacco retailer would be required to demonstrate that the imposition of the non-transferability clause, above, would constitute an undue hardship on their business. For example, the death of a family-member whose name was originally listed on the permit application might constitute an undue hardship. Or, a landlord with knowledge that a permitted tobacco retailer cannot transfer permits to new locations, might attempt to increase rent substantially at a permitted location above fair market value, recognizing that a permitted tobacco retailer would have no options to maintain a permit and seek alternate business locations. Staff is finalizing the details of this section.

ENFORCEMENT

For existing permitted retailers, BHMC 4-2-2115 already sets forth the enforcement provisions of the existing City's tobacco and electronic cigarette retailer permitting regulations. The proposed ordinance would be subject to these same enforcement provisions. Additionally, the Municipal Code includes a provision for compliance monitoring that allows a "youth decoy" to participate in compliance checks supervised by a peace officer or code enforcement official of the City. On an annual basis, the Police Department conducts sting operations with a youth decoy to monitor compliance.

The City would continue enforcing existing permits in this manner with already established enforcement mechanisms. This includes escalating fines and civil penalties. A first violation is \$250. A second violation within a five-year period is \$750 and suspends the retailer permit for 90 days. A third violation within a five-year period is \$1,000 and revokes the permit.

If a non-permitted retailer were to sell tobacco products, enforcement would default to the general provisions of the Municipal Code whereby at the discretion of the City Attorney or City Prosecutor, violations could be prosecuted as infractions or misdemeanors. In addition, the City could impose administrative penalties pursuant to BHMC 1-3-3. The City could also seek to declare the property a public nuisance or bring a civil action against the business.

OUTREACH

Due to the modifications to the timeline presented in the introduction section of this report, Staff has distributed a revised letter to existing retailers and other interested parties that have previously provided contact information, including the Chamber of Commerce and Conference and Visitors Bureau. Staff has notified the retailers by mail, email, and phone call on March 15, 2019. Staff has updated the website to reflect this new information. A copy of the letter has been included as Attachment 1. Staff has also attended a recent Chamber of Commerce Government Affairs Committee meeting on March 15, 2019 to discuss smoking regulation and signage. Previous outreach has included:

- An email to the Health and Safety Commission on January 10, 2019;
- A notification to the public at the January 28, 2019, Health and Safety Commission Regular Meeting;
- A brief update at the Chamber's Government Affairs Committee meeting on January 10, 2019—the Committee members provided preliminary input, but the Committee did not take any action;
- Hardcopy letters and emails distributed to active holders of the City's Tobacco and Electronic Cigarette Retailer Permit distributed on January 16, 2019;
- Updates/discussions with the Board of Directors at the Chamber of Commerce and the Conference and Visitors Bureau;
- Emails to the Beverly Hills Conference and Visitors Bureau, the Rodeo Drive Committee, and the Beverly Hills Chamber of Commerce on January 16, 2019;
- Discussions regarding policy recommendations among individual Health and Safety Commissioners or Staff with organizations that support reducing exposure to smoke and tobacco; and
- Emails to those who spoke on items related to flavored tobacco and smoking regulations at the August 7, 2018, City Council Study Session, the January 22, 2018, Health and Safety Commission meeting, and the February 26, 2018, Health and Safety Commission meeting, the February 5, 2019 City Council Study Session and the February 25, 2019 Health and Safety Commission meeting. This includes organizations such as Los Angeles County Department of Public Health, the American Lung Association and the National Association of Tobacco Outlets.

RECOMMENDATION

Due to timeline constraints, Staff recommends the Commission review the questions presented in the Commission policy questions section of this report vote on the specific policy options presented.

Staff additionally recommends (1) the modification to the definition of tobacco product as presented, (2) the inclusion of a hardship exemption, (3) the inclusion of a hardship exemption specifically as it relates to transferability of permits and (4) the inclusion of the enforcement provisions as presented.

Staff will include these key policy provisions in a draft ordinance that has been scheduled for the City Council Study Session May 7 and present the Commission's recommendations to City Council.

At the April 22 Commission Meeting, Staff will present additional options for partnerships with other non-profit organizations and agencies.



CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Health and Safety Commission Liaison Committee

FROM: Michael George, Management Analyst

DATE: April 9, 2019

SUBJECT: Discussion of No-Smoking Signage Designs and Placement

ATTACHMENTS:

1. No-Smoking Signage Designs
2. Heat Map of Observed Smoking Violations: Jan 2019 – Apr 2019
3. Ambassador Program Enforcement/Outreach Statistics

This report transmits an update on the process the City has undergone to develop designs for no-smoking signage to be placed in various areas throughout the City and requests the Liaisons to provide feedback and input on the signage design and locations for placement.

Background

At the June 19, 2018, Formal Session, the Council approved acceptance of a grant that was awarded to the City from the California Department of Justice ("DOJ") for programs related to tobacco and smoking law enforcement and outreach for a total amount of \$305,810.00. This amount will be expended over a two-year period.

A portion of this grant is reserved for a firm to provide professional comprehensive design content, including no-smoking signage to be placed in public areas, which will match the overall look and feel of the City's brand and existing outreach materials.

On October 12, 2018, staff initiated a Request for Proposals process to identify a firm that could provide the City with high-quality design services. Staff scored the submissions on the following criteria:

- the quality of the work/sample submitted;
- municipal/government experience;
- demonstrated creativity;
- evidence of good content/research;
- brand alignment with Beverly Hills; and
- evidence of project management capability.

After reviewing and scoring submissions from three different firms, staff determined that Fuel Creative Group, Inc. was the most well qualified firm to provide the design services as set forth in

the scope of work and the City entered into an Agreement with Fuel Creative Group, Inc. on January 4, 2019.

No-Smoking Signage Designs

Stakeholder Engagement

The consultant provided the first set of no-smoking signage concept designs to an internal team of City staff. After providing initial feedback to the consultant, staff sought input from the Health and Safety Commission meeting on February 25, 2019. The Commission identified their two most preferred concept designs. On March 14, 2019, staff sought additional input by presenting the Commission's two most preferred designs at the Beverly Hills Chamber of Commerce Government Affairs Committee meeting. Additionally, staff presented the HSC's two most preferred concept designs at the Beverly Hills Chamber of Commerce Board of Directors Meeting on March 26, 2019. The Beverly Hills Conference and Visitors Bureau staff and some membership was also present at this meeting.

Design Concepts

Staff analyzed the feedback from these meetings and worked with the consultant to update the designs accordingly. The following samples (Attachment 1) are presented to the Liaisons for input:

- general informational signs for high-traffic business areas- includes details from the municipal code about where and how smoking is permitted;
- general awareness signs for any area- does not include details from the municipal code about where and how smoking is permitted;
- location specific signs- includes individual designs for alleys, City parks, and parked cars;
- targeted enforcement signs intended for placement in known areas with higher concentrations of smoking; and
- general awareness campaign options for other outreach collateral.

It was difficult to balance the goal of educating the public on the reality of the code to reduce the amount of smoking in the City and the goal of ensuring that the City is projecting a welcoming yet firm message to visitors. By explicitly conveying that smoking is not allowed in the public right-of-way except while actively travelling by, the signs are intended to teach people, who have to smoke, how they can do so within the law.

The general awareness sign does not have the details of the regulations included in the design. Staff could install these signs in particular areas as appropriate. All signs that are installed, regardless of the level of detail provided, will include a link to the website and the reference to the municipal code so that members of the public can research the specific rules if they desire to do so.

Staff requests the Liaisons to provide input on the designs.

No-Smoking Signage Locations

The recommendations for placement of the no-smoking signage in the business triangle and S. Beverly Drive are based upon recommendations from the Health and Safety Commission and a heat map (Attachment 2), which indicates the areas where smoking violations are most often observed by the Ambassadors.

When the Ambassadors observe someone violating the smoking ordinance in three or more instances, the Ambassadors refer the case to Code Enforcement as part of the established

referral and enforcement process. Of the 397 violations observed in February 2019, 354 involved cigarettes and 43 involved electronic cigarettes. Summary tables of enforcement and outreach data are included as Attachment 3. This information is helpful in determining signage placement in the business triangle and along S. Beverly Drive.

In addition to these areas, signage will be placed in City parks, along sidewalks, alleys, and streets. Some specific areas where staff would install the signage, as appropriate, include:

- N. Rodeo Drive;
- N. Beverly Drive;
- S. Beverly Drive;
- N. Cañon Drive;
- Brighton Way;
- Dayton Way;
- Beverly Gardens Park;
- Beverly Cañon Gardens;
- Roxbury Park;
- La Cienega Park;
- the Beverly Hills Civic Center; and
- Robertson Boulevard public right-of-ways.

Staff anticipates that smoking patterns may potentially shift as the installation of the signage begins. Staff will continue to monitor the frequency and locations of smoking violations throughout the City and move the signs or add more signs as needed.

Other Collateral and Outreach

Per the scope of services as detailed in the Agreement between the City and the consultant, additional materials will also be developed to match the signage as part of the City's ongoing no-smoking campaign. While the main purpose of the signage is to communicate the City's regulations clearly, the additional outreach and education materials as listed below provide opportunities for the City to develop unique branded content that, while conveying the regulations, projects a memorable and captivating look and feel. Content and designs for these other outreach and education materials include the following:

- citywide informational mailer on the City's tobacco policies;
- branded envelope intended for current and future smoking-related mailings;
- informational mailer targeted to all businesses;
- informational mailer targeted to all multi-unit resident dwellers and owners;
- posts to be promoted through social media targeted to the local community;
- targeted advertisements for the local newspapers;
- webpage redesign encompassing information on the City's tobacco and smoking restrictions; and
- informational collateral targeted to high school students on the dangers of tobacco use and smoking, the City's smoking cessation resources, and the City's tobacco and smoking restrictions.

Existing Outreach and Education Materials

The materials that will be developed by the consultant would help supplement the City's existing no-smoking outreach and education resources. The City's website is the primary source of

information on the City's no-smoking regulations and programs. The website currently includes the following information:

- state and local smoking regulations;
- smoking cessation resources;
- Beverly Hills press releases related to the City's smoking regulations; and
- a page designed to inform businesses of the City's smoking regulations, which includes detailed information on previously implemented smoking policies as well as smoking policies currently under development that impact the business community.

Other information on the website includes, but is not limited to, the following:

- no-smoking tent card template;
- smoking and vaping regulations informational video produced by BHTV;
- no-smoking multi-unit housing sign template;
- smoke-free multi-unit housing sample lease language;
- smoke-free multi-unit housing landlord/HOA letter template;
- postcard mailer for smoke-free multi-unit housing ordinance;
- flyer for City smoking regulations effective May 5, 2017; and
- information on the City-sponsored Smoking Cessation Program offered in partnership with Cedars-Sinai, including how to sign up for the program.

Pole Banners

Additionally, staff is exploring the opportunity to have branded no-smoking street pole banners fabricated and temporarily installed throughout specific areas, including but not limited to, N. Beverly Drive, S. Beverly Drive, and N. Cañon Drive. The banners could be reinstalled during particular times of year as appropriate to help communicate the City's smoking regulations.

Summary

Staff requests the Liaisons to provide feedback and input on the no-smoking signage designs and placement plan.

Staff anticipates presenting final designs and locations to the Health and Safety Commission at their April 22, 2019, meeting and providing an informational update at the May 7, 2019, City Council Study Session. Staff will then initiate the final design development process to produce the signs that can be fabricated and installed.

Attachment 1



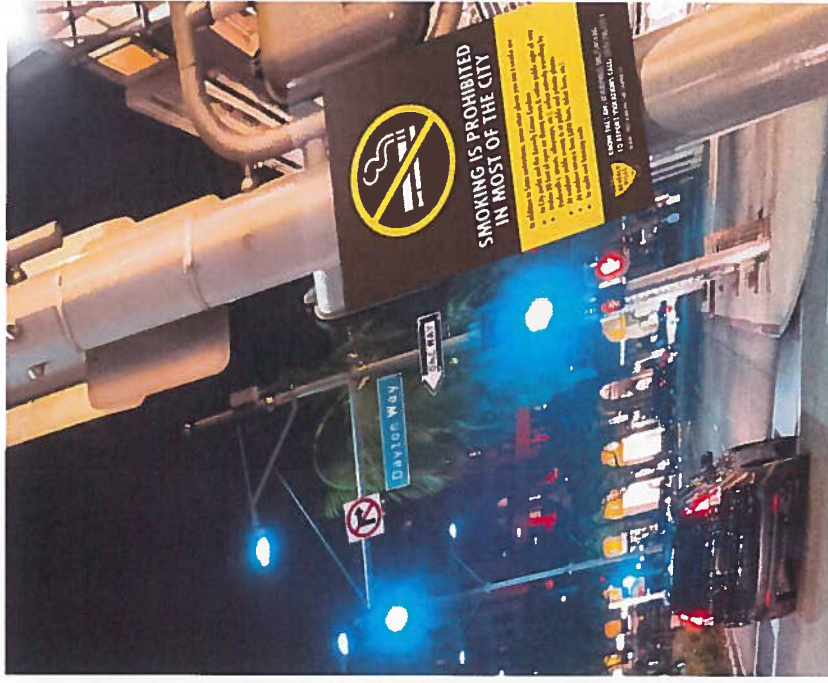
The City of Beverly Hills Smoking Awareness Sign Program—Addendum 1

Prepared for Beverly Hills

04.4.19

1A. INFORMATION SIGNS-CODE

These signs would be only posted in high-traffic areas that are entrances to regions of the City to educate on the specific main points of code.



Example of info sign in an entrance zone to high-traffic areas where we want to educate. The smaller no smoking sign would be used primarily after a point like this.



1. Code Information Sign Long SIZE = 12x18

2. Code Information Sign Short SIZE = 12x18



2321 P Street, Second Floor
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Project:
Beverly Hills Smoking
Awareness Campaign
Client:
Beverly Hills
Designer:
FUEL Creative Group

APN:
n/a

Revisions:
R1: 4.4.19

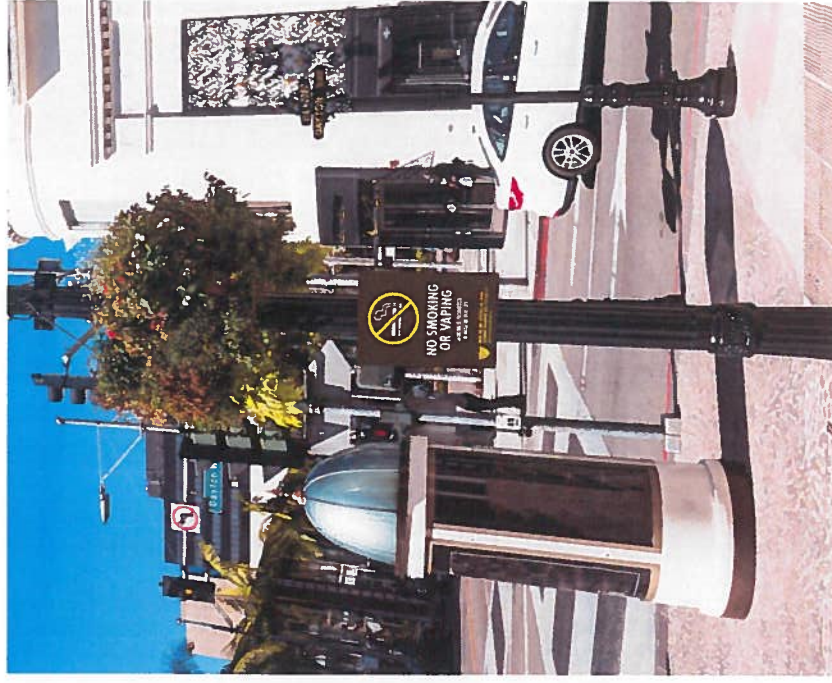
THE INFORMATION ON THIS PAGE IS FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT A CONTRACT. THE INFORMATION ON THIS PAGE IS FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT A CONTRACT.

ADDENDUM 1
Information Signs
Code

1A

1B. INFORMATION SIGNS-AWARENESS

These are general awareness signs that can be posted anywhere



We realize that you will probably not put the sign here, but it is a pretty good worst case scenario and the rendering shows that the sign style matches the environment well and is still visible.



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APN:
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Revisions:
R1: 4.4.19

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ADDENDUM 1
Information Signs--
Awareness

1B

2. LOCATION SPECIFIC SIGNS

These signs are intended to be changeable to address specific smoking awareness items you want to public to be aware of while they are actually in the location



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 Beverly Hills Smoking
 Awareness Campaign
Client:
 Beverly Hills
Designer:
 FUEL Creative Group

APH:
 n/a

Revisions:
 R1, 4.4.19

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ADDENDUM 1
 Information Signs -
 Awareness

3. ENFORCEMENT SIGNS

These signs are meant to be a clear warning and deterrent in areas where smoking is an issue. They include a citation warning.



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ADDENDUM 1 Enforcement Signs—

4. AWARENESS CAMPAIGN OPTIONS

There are many more items that will be produced for the campaign than what is presented here. Below are two 'look and feel' options. Once one is selected we will produce the remaining items.

OPTION A



1 A. Residential Mailer Front
SIZE = 5.5 x 8.5



11B, Webpage as Viewed on Phone
SIZE = VARIES

OPTION B



2A. Residential Mailer Front
SIZE = 55 x 85



28. Webpage as Viewed on Phone
SIZE = VARIES

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Client:
Beverly Hills

Designer:
FUEL Creative Group

n/a

Revisions:
R1 4.4.19

[illegible]

ADDENDUM 1

Awareness Campaign Options

Attachment 2

Heat Map of Observed Smoking Violations: Jan 2019 – Apr 2019



Attachment 3

City of Beverly Hills Ambassador Program
Enforcement/Outreach Statistics

Violations		
Month	Total No. of Violations	Total No. of Repeat Violations
October 2018	597	201
November 2018	603	181
December 2018	497	311
January 2019	395	284
February 2019	397	300

Cigarette Outreach Summary – February 2019	
Source of Engagement	Total Engagement
Smoking Ambassador (Individual)	193
Hospitality Ambassadors (Team)	161

E-Cigarette Outreach Summary – February 2019	
Source of Engagement	Total Engagement
Smoking Ambassador (Individual)	14
Hospitality Ambassadors (Team)	29