



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

**CITY OF BEVERLY HILLS  
455 N. Rexford Drive  
Conference Room 280A  
Beverly Hills, CA 90210**

**IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING**

**Beverly Hills Liaison Committee Meeting  
<https://beverlyhills-org.zoom.us/my/committee>  
Meeting ID: 516 191 2424  
**Passcode: 90210****

**You can also dial in by phone:  
+1 669 900 9128 US  
+1 833 548 0282 (Toll-Free)**

**One tap mobile:  
+16699009128,,5161912424# US  
+18335480282,,5161912424# (Toll-Free)**

**Tuesday, November 8, 2022  
2:00 PM**

***Please be advised that pre-entry metal detector screening requirements are now in place in City Hall. Members of the public are requested to plan visits accordingly.***

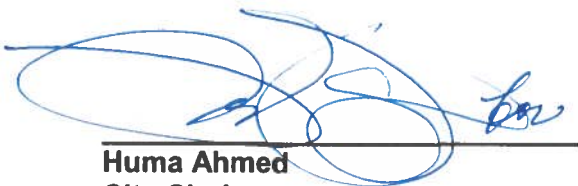
*In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at [www.beverlyhills.org/live](http://www.beverlyhills.org/live) and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to [mayorandcitycouncil@beverlyhills.org](mailto:mayorandcitycouncil@beverlyhills.org) and will also be taken during the meeting when the topic is being reviewed by the Beverly Hills City Council Liaison / Health and Safety Commission Committee. Beverly Hills Liaison meetings will be in-person at City Hall.*

**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) Resolution of the Beverly Hills City Council Liaison / Health and Safety Commission Committee authorizing public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e) and making findings and determination regarding the same.

Recent legislation was adopted allowing the Beverly Hills City Council Liaison / Health & Safety Commission Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions and the proposed resolution implements the necessary requirements.

- 3) Request for direction on a Fiscal Year 2022/2023 City Council Priority which directs staff to explore updating the City's Smoking Ordinance to potentially prohibit smoking while moving on a public right of way
- 4) Adjournment

  
**Huma Ahmed**  
**City Clerk**

**Posted: November 4, 2022**

**A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT**  
**[WWW.BEVERLYHILLS.ORG](http://WWW.BEVERLYHILLS.ORG)**



Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services. City Hall, including the Municipal Gallery, is wheelchair accessible.



## STAFF REPORT

**Meeting Date:** November 7, 2022

**To:** City Council Liaison / Health and Safety Commission Committee

**From:** Gabriella Yap, Deputy City Manager

**Subject:** A RESOLUTION OF THE CITY COUNCIL LIAISON / HEALTH AND SAFETY COMMISSION COMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

**Attachments:** 1. Proposed resolution

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### **RECOMMENDATION**

Staff and the City Attorney's office recommend that the City Council Liaison / Health and Safety Commission Committee adopt a resolution making the following findings so that meetings of the City Council Liaison / Health and Safety Commission Committee will be subject to the special Brown Act requirements for teleconference meetings: (1) the City Council Liaison / Health and Safety Commission Committee has reconsidered the circumstances of the COVID-19 state of emergency; (2) the state of emergency continues to directly impact the ability of the members to meet safely in person; and (3) state or local officials continue to impose or recommend measures to promote social distancing. Though the City Council Liaison / Health and Safety Commission Committee adopted such a resolution in the past, these findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

### **FISCAL IMPACT**

The proposed resolution allowing the City Council Liaison / Health and Safety Commission Committee greater flexibility to conduct teleconference meetings is unlikely to cause a greater fiscal impact to the City as the City Council Liaison / Health and Safety Commission Committee has been conducting such teleconference meetings for over a year.

## **INTRODUCTION**

AB 361 allows the City Council Liaison / Health and Safety Commission Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions. These special requirements give the City greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or an in-person meeting would present imminent risks to the health and safety of attendees.

## **BACKGROUND**

On September 16, 2021, the Governor signed AB 361, amending the Brown Act to establish special requirements for teleconference meetings if a legislative body of a local public agency holds a meeting during a proclaimed state of emergency and either state or local officials have imposed or recommended measures to promote social distancing, or the body determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act's standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

## **DISCUSSION**

To continue to hold meetings under these special teleconferencing requirements, the City Council Liaison / Health and Safety Commission Committee needs to make two findings pursuant to Government Code Section 54953(e)(3). First, there must be a declared state of emergency and the City Council Liaison / Health and Safety Commission Committee must find that it has reconsidered the circumstances of such emergency. Second, the City Council Liaison / Health and Safety Commission Committee must find that such emergency continues to directly impact the ability of the City Council Liaison / Health and Safety Commission Committee's members to meet in person. Alternatively, for the second finding, the City Council Liaison / Health and Safety Commission Committee must find that state or local officials continue to impose or recommend social distancing measures. These findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

The declared emergency is still in effect. Furthermore, the State of California and the County of Los Angeles have recommended measures to promote social distancing. The Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness or death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to

recommend that employers take steps to support physical distancing and the City Council continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees.

Please note that AB 361 applies to all legislative bodies. Therefore, Commissions and standing committees will need to also comply with the requirements of AB 361.

Gabriella Yap  
Secretary of the  
City Council Liaison / Health and Safety  
Commission Committee  

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Approved By

RESOLUTION NO. CCL-HSCC-02

RESOLUTION OF THE CITY COUNCIL LIAISON / HEALTH  
AND SAFETY COMMISSION COMMITTEE OF THE CITY OF  
BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC  
MEETINGS TO BE HELD VIA TELECONFERENCING  
PURSUANT TO GOVERNMENT CODE SECTION 54953(e)  
AND MAKING FINDINGS AND DETERMINATIONS  
REGARDING THE SAME

WHEREAS, the City Council Liaison / Health and Safety Commission Committee is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19 and to support physical distancing during the COVID-19 pandemic; and

WHEREAS, all meetings of the City Council Liaison / Health and Safety Commission Committee are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 54950 – 54963), so that any member of the public may attend, participate, and watch the City Council Liaison / Health and Safety Commission Committee conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the

emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency in response to the COVID-19 pandemic (the “Emergency”); and

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time; and

WHEREAS, the Los Angeles County “Responding together at Work and in the Community Order (8.23.21)” provides that all individuals and businesses are strongly encouraged to follow the Los Angeles County Public Health Department Best Practices. The Los Angeles County Public Health Department “Best Practices to Prevent COVID-19 Guidance for Businesses and Employers”, updated on September 13, 2021, recommend that employers take steps to reduce crowding indoors and to support physical distancing between employees and customers; and

WHEREAS, the unique characteristics of public governmental buildings is another reason for continuing teleconferenced meetings, including the increased mixing associated with bringing people together from across several communities, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public

meetings and the challenge of achieving compliance with safety requirements and recommendations in such settings; and

WHEREAS, the Beverly Hills City Council has adopted a resolution that continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees; and

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the City Council Liaison / Health and Safety Commission Committee intends to continue holding public meetings via teleconferencing pursuant to Government Code Section 54953(e).

NOW, THEREFORE, the City Council Liaison / Health and Safety Commission Committee of the City of Beverly Hills resolves as follows:

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The City Council Liaison / Health and Safety Commission Committee hereby determines that, as a result of the Emergency, meeting in person presents imminent risks to the health or safety of attendees.

Section 3. The City Council Liaison / Health and Safety Commission Committee shall continue to conduct its meetings pursuant to Government Code Section 54953(e).

Section 4. Staff is hereby authorized and directed to continue to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act.



Section 5. The City Council Liaison / Health and Safety Commission Committee has reconsidered the circumstances of the state of emergency and finds that: (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (ii) state or local officials continue to impose or recommend measures to promote social distancing.

Section 6. The Secretary of the City Council Liaison / Health and Safety Commission Committee shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolution of the City Council Liaison / Health and Safety Commission Committee of this City.

Adopted: November 7, 2022

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LILI BOSSE  
Presiding Councilmember of the City  
Council Liaison / Health and Safety  
Commission Committee of the City of  
Beverly Hills, California



**CITY OF BEVERLY HILLS**  
**POLICY & MANAGEMENT DEPARTMENT**

**MEMORANDUM**

**TO:** City Council Liaison / Health and Safety Commission Committee

**FROM:** Cynthia Owens, Municipal Affairs Program Manager

**DATE:** November 8, 2022

**SUBJECT:** Request for Direction on a Fiscal Year 2022/2023 City Council Priority which Directs Staff to Explore Updating the City's Smoking Ordinance to Potentially Prohibit Smoking while Moving on a Public Right of Way

**ATTACHMENTS:** 1. Beverly Hills Ordinance 17-O-2730  
2. Public Comment

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**INTRODUCTION**

During the adoption of the Fiscal Year 2022-2023 City Council Priorities, Councilmember John Mirisch requested, and the City Council supported, exploring the possibility of eliminating the allowance for smoking while actively traveling on a public right of way from the City's Smoking Ordinance. This exception was created during the adoption of Ordinance 17-O-2730 (Attachment 1) most likely due to the request of the City's business community.

This item requests the City Council Liaison / Health and Safety Commission Committee ("Liaisons") provide direction on this City Council Priority.

**DISCUSSION**

**Background**

At the December 6, 2016 Study Session, the City Council tasked the Health & Safety Commission ("Commission") with exploring areas to strengthen and expand current City smoking regulations, in addition to the Commission's current consideration of smoking regulations in multi-family unit housing.

The Commission reviewed the topic strengthening and expanding smoking regulations at their regularly scheduled December and January 2016 meetings, and conducted a Special Meeting in February 2017.

At the [City Council Study Session on February 17, 2017](#) the Commission's recommendations were presented to the City Council which included the following items:

1. Expanding smoking restrictions near open air dining to twenty feet (previously this was five feet);
2. Prohibiting smoking in the public right of way (including sidewalks and alleyways) unless actively traveling;
3. Keeping special events and hotel smoking regulations as currently regulated; and
4. Allocating funding for enforcement of these additional regulations.

At the [City Council Formal Meeting on February 21, 2017](#), a first reading of the ordinance strengthening the City's smoking regulation occurred. A second reading of the ordinance occurred at the [City Council Formal Meeting on April 4, 2017](#). The ordinance became effective on May 5, 2017.

### **Review of the Exception of Smoking while Actively Traveling on a Public Right of Way from the City's Smoking Prohibition**

The Commission, during their December 16, 2016 meeting, identified areas to expand and strengthen smoking regulations such as expanding smoking restrictions near open air dining and prohibiting smoking in the public right of way. The Commission requested staff reach out to the business community for input on how strengthening the City's smoking regulations may affect their businesses.

Staff performed community outreach through a variety of methods including:

- Attending meetings with the City's business partners (Beverly Hills Chamber of Commerce, Beverly Hills Conference and Visitors Bureau, and the Rodeo Drive Committee),
- Performing outreach to the business community which included hotels, and
- Conducting an online survey.

The business community expressed resistance to strengthening the smoking regulations due to concerns that stricter rules could lead to a loss of businesses, especially with foreign tourists. This stance was further expressed by the City's business partners in a letter to the Commission.

The concerns in 2017 listed by the businesses included, but were not limited to:

- Multi-day events/conferences were used as an example of how strengthening regulations by removing designated smoking areas in public gatherings/special events may affect a business significantly. These events can attract thousands of attendees from many different countries. Removing designated smoking areas may negatively affect these visitors, especially those from countries where smoking is more common place.
- Hotels expressed concerns about strengthening smoking regulations by removing designated smoking areas around pools and outside adjoining areas. Pursuant to state regulations, smoking inside hotels' places of employment, such as lobbies, lounges, waiting areas, restrooms, etc. is already prohibited. Therefore, if a patron desires to smoke, they either need to go outside and locate a smoking area or utilize a hotel's designated area. The concern was that smoking patrons, especially those from foreign countries, may find the expanded smoking regulations too restrictive and desire to stay elsewhere.
- One retail business shared that their average transaction is approximately \$43,000. In deliberating over these large purchases, it is quite common for patrons to step outside before the transaction occurs and smoke with others in their party. Staff was told that the quick smoke assists their patrons in the deliberation process. In fact, this business keeps lighters on hand knowing that the activity occurs.

Since 2017, staff has not conducted a follow up survey to see if similar concerns remain in the business community, but it is possible the feedback from the business community may still be similar to 2017 as businesses are still recovering from the impacts of COVID-19. Staff has also not had an opportunity to perform outreach to the business community for any impacts they may

believe they will experience should smoking while actively traveling in the public right of way be prohibited.

The Liaisons may wish to consider directing staff to outreach to residents in multi-family units as the only avenue for tenants in multi-unit housing to smoke is by actively traveling in a public right of way. This is due to the City's multi-unit smoking regulations preventing smoking in all multi-unit dwellings as of January 1, 2019. The ability of a tenant to be cited while being observed on a public right of way smoking may inadvertently cause a tenant to go back into their unit to smoke where they cannot be observed, thereby limiting the ability of the City to take action against the tenant.

### Smoking Rates & Trends

The City is well-known as an international tourist destination for dining at our restaurants, shopping in our stores, and staying at our hotels. Tourists are typically from Saudi Arabia, Qatar, the United Arab Emirates ("UAE"), China, Indonesia, United Kingdom, Canada, and Mexico. These tourists traditionally play a significant role in contributing to the revenue of these businesses.

In 2017, there were concerns expressed that tourists from certain geographical areas around the world may be apprehensive about visiting Beverly Hills should the City prohibit smoking while actively traveling in a public right away. Businesses believed a smoking patron may desire to visit another city or location that better caters to their smoking preference, especially those regions where smoking is more prevalent, such as in China and other parts of Asia, Europe and the Middle East.

In response to concerns that foreign tourism may be affected by additional smoking regulations, staff reviewed research and data on worldwide smoking rates. The following is a breakdown of smoking prevalence by nation for those who are most likely to visit Beverly Hills:

**Percent of Population Who Use Tobacco<sup>1</sup>**

<b>Country</b>	<b>Total Percent of Population</b>
Canada	13.0%
China <sup>2</sup>	25.6%
Indonesia	37.6%
Mexico	13.1%
Qatar	11.8%
Saudi Arabia	14.3%
UAE <sup>3</sup>	18.2%
United Kingdom	15.4%
United States	23.0%
United States – California <sup>4</sup>	10.0%

<sup>1</sup> All data for 2020 from the World Health Organization except for the UAE and California

<sup>2</sup> The rate for men in China is 41.5% versus 1.5% for women per OECD Health Statistics 2021

<sup>3</sup> UAE data obtained from Macrotrends and is as of 2018

<sup>4</sup> California data obtained from the Centers for Disease Control and Prevention and is as of 2019

## Smoking Near Entryways

The American Lung Association published their [State of Tobacco Control 2022](#) report for California in May 2022. This report provides grades to every city in California for their progress in five key tobacco control policies as follows:

- Smokefree outdoor air,
- Smokefree housing,
- Reducing tobacco sales,
- Flavored tobacco restrictions, and
- An overall tobacco control grade which is calculated based on the grades the city or county receives in specific areas.

The City of Beverly Hills received an A for overall tobacco control as well as an A in smokefree outdoor air, smokefree housing, reducing tobacco sales, and restricting the sales of flavored tobacco products.

In the Smokefree Outdoor Air category, cities are evaluated on the following criteria:

- Dining Areas (0-4 points)
- Entryways (0-4 points)
- Public Events (0-4 points)
- Recreations Areas (0-4 points)
- Services Areas (0-4 points)
- Sidewalks in Commercial Areas (0-1 points)
- Worksites (0-1 points)

Beverly Hills scored an A in the Smokefree Outdoor Air category, receiving the maximum score in all of the areas except for entryways (2 out of 4) and public events (3 out of 4).

The American Lung Association provides the following information for rating cities on their tobacco policies related to entryways:

### **Description**

Restrictions on smoking in places within a certain distance of doors, windows, and other openings into all enclosed areas where smoking is prohibited.

### **State Law**

Smoking is prohibited within 20 feet of entrances, exits, or operable windows of a public building, which includes state, county and city buildings.

### **Criteria**

- 4 – Smoking prohibited within 20 or more feet of entryways
- 3 – Smoking prohibited within 15-19 feet of entryways
- 2 – Smoking prohibited within some distance less than 15 feet of entryways or within an unspecified distance of entryways
- 0 – No smoking restrictions for entryways

The City's Municipal Code currently states the following regarding entryways:

### **5-4-14: PROHIBITION OF SMOKING IN PUBLIC AND PRIVATE PLAZAS:**

Smoking is prohibited in all public and private plazas except in areas of private plazas that are specifically set aside for smoking and designated by posted signage, **provided that such areas are not within twenty feet (20') of building entrances or exists or designated pathways.** For purposes of this section, a "public and private plaza" shall mean any unenclosed place, other than a publicly owned sidewalk, that is paved and permanently

set aside for pedestrian use, including, for example, a courtyard, plaza or promenade. (Ord. 15-O-2680, eff. 7-9-2015)

When Health and Safety Commission Baker inquired with the American Lung Association as to why the City had scored only two points out the possible four points for entryways, given the City's Municipal Code does prohibit smoking within 20 feet of an entryway, they made a recommendation the City consider amending our policy to specifically state smoking is prohibited within 20 feet or more entryways in all enclosed places where smoking is prohibited, including doors and windows.

### **RECOMENDATIONS**

Staff recommends the Liaisons provide direction to staff on the City Council FY 22/23 Priority to explore the possibility of prohibiting smoking while actively traveling on a public right of way and provide direction to staff on the next steps. This may include any or none of the following:

- 1) Obtaining information from the community on eliminating smoking while actively traveling on a public right of way;
- 2) Types of outreach to perform to the community to regarding the potential elimination of smoking while actively traveling in a public right of way;
- 3) Direction exploring amending our ordinance to specifically state smoking is prohibited within 20 feet or more entryways in all enclosed places where smoking is prohibited, including doors and windows; or
- 4) Any other direction the Liaisons may wish to provide.

# **Attachment 1**

**ORDINANCE NO. 17-O- 2730**

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING CHAPTER 5 OF THE BEVERLY HILLS  
MUNICIPAL CODE TO ADOPT STRICTER SMOKING  
REGULATIONS**

WHEREAS, the City seeks to strengthen and expand its current smoking regulations to protect the health and safety of its children, residents and visitors who are exposed to second hand smoke.

WHEREAS, tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs as evidenced by the fact that 480,000 people die prematurely in the United States from smoking-related diseases every year, including more than 41,000 deaths resulting from secondhand smoke exposure.<sup>1</sup>

WHEREAS, the Centers for Disease Control and Prevention has found that tobacco-related diseases is the nation's leading cause of preventable death.<sup>2</sup> The World Health Organization estimates that tobacco accounts for the greatest cause of death worldwide accounting for nearly 6 million deaths per year, and current trends show that tobacco use will cause more than 8 million deaths annually by 2030.<sup>3</sup>

WHEREAS, the U.S. Surgeon General,<sup>4</sup> the U.S. Environmental Protection Agency<sup>5</sup> and, the California Environmental Protection Agency<sup>6</sup> have found secondhand smoke to be a public health risk and have classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen.<sup>7 8</sup>

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<sup>1</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General Executive Summary*. 2014. Available at: [www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf](http://www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf).

<sup>2</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General Executive Summary*. 2014. Available at: [www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf](http://www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf).

<sup>3</sup> World Health Organization. *Tobacco Fact Sheet No. 339*. July 2015. Available at: <http://www.who.int/mediacentre/factsheets/fs339/en/>

<sup>4</sup> U.S. Department of U.S. Department of Health and Human Services. *2006 Surgeon General's Report—The Health Consequences of Involuntary Exposure to Tobacco Smoke*. 2006. Available at: [www.cdc.gov/tobacco/data\\_statistics/sgr/2006/index.htm](http://www.cdc.gov/tobacco/data_statistics/sgr/2006/index.htm).

<sup>5</sup> U.S. Environmental Protection Agency. *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*. <https://www.epa.gov/aboutepa/epa-designates-passive-smoking-class-or-known-human-carcinogen>

<sup>6</sup> *Chemicals known to the state to cause cancer or reproductive toxicity. State of California Environmental Agency Office of Health Hazard Assessment Safe Drinking Water and Toxic Enforcement Act of 1986*. 2015. Available at: [www.oehha.ca.gov/prop65/prop65\\_list/files/P65single012315.pdf](http://www.oehha.ca.gov/prop65/prop65_list/files/P65single012315.pdf).

<sup>7</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General Executive Summary*. 2014. Available at: [www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf](http://www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf).



WHEREAS, secondhand smoke is a human carcinogen and has long term risks to persons exposed to it. Acute effects of secondhand smoke are serious and include increased frequency and severity of asthma attacks, the initiation of asthma, respiratory symptoms such as coughing and shortness of breath, and respiratory infections such as bronchitis and pneumonia.<sup>9</sup>

WHEREAS, exposure to secondhand smoke increases the risk of coronary heart disease by about 25 percent to 30 percent<sup>10</sup> and increases the risk of stroke by 20 to 30 percent.<sup>11</sup>

WHEREAS, in 2016, the California legislature enacted five separate bills, Senate Bills 5 and 7 and Assembly Bills 7, 9 and 11 (collectively “the Smoking Legislation”), which regulate tobacco and tobacco products. With limited exceptions, the Smoking Legislation does not prohibit the adoption of local standards, or enforcement of local ordinances, that impose greater restrictions than the State standards.

WHEREAS, it is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging smoking and tobacco use around non-tobacco users, where they live, work, and play; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle and by affirming and promoting a healthy environment in Beverly Hills.

WHEREAS, the City Council does hereby find that tobacco smoke is detrimental to the health, welfare and comfort of the general public and that the health, safety and general welfare of the residents of, persons employed in, and persons who frequent this city would be furthered by expanding the prohibition on smoking near open air dining and prohibiting smoking in the public right of way. The purpose of this ordinance is to ensure a healthier environment within the city, improve public safety by reducing litter from smoking waste and the risk of fire from smoking, and enhance the welfare of residents, workers, and visitors by reducing exposure to second hand smoke, which studies confirm can cause negative health effects in non-smokers, and balance the needs of persons who smoke with the needs of nonsmokers, including children and youth, to be free from the discomforts and health threats created by exposure to second-hand smoke.

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<sup>8</sup> Institute of Medicine. *Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence*. Washington, DC; 2010. Available at: [www.iom.edu/en/Reports/2009/Secondhand-Smoke-Exposure-and-Cardiovascular-Effects-Making-Sense-of-the-Evidence.aspx](http://www.iom.edu/en/Reports/2009/Secondhand-Smoke-Exposure-and-Cardiovascular-Effects-Making-Sense-of-the-Evidence.aspx).

<sup>9</sup> California Department of Public Health, California Tobacco Control Program. *California Tobacco Facts and Figures 2016*. California Department of Public Health; 2015.

<sup>10</sup> Institute of Medicine. *Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence*. October 2009.

<sup>11</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General Executive Summary*. 2014. Available at: [www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf](http://www.surgeongeneral.gov/library/reports/50-years-of-progress/exec-summary.pdf).

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY  
ORDAIN AS FOLLOWS:

Section 1.      Code Amendment. The City Council hereby amends Section 5-4-2 (SMOKING IN OPEN AIR DINING AREAS PROHIBITED) of Chapter 4 (SMOKING REGULATIONS) of Title 5 (PUBLIC HEALTH, WELFARE, AND SANITATION) of the Beverly Hills Municipal Code to read as follows:

“Smoking is prohibited in all open air dining areas located on private or public property, including the public right of way. In addition, smoking is prohibited within twenty feet (20') of an open air dining area, except smoking will be allowed if, and only if, the smoker is actively passing by the open air dining area. Notwithstanding this prohibition, smoking shall be allowed in up to twenty five percent (25%) of contiguous deck space surrounding hotel swimming pools.”

Section 2.      Code Amendment. The City Council hereby renumbers Section 5-4-17 (PENALTIES AND ENFORCEMENT) as Section 5-4-18 (PENALTIES AND ENFORCEMENT) and adds a new Section 5-4-17 (PROHIBITION OF SMOKING IN THE PUBLIC RIGHT OF WAY) to the Chapter 4 (SMOKING REGULATIONS) of Title 5 (PUBLIC HEALTH, WELFARE, AND SANITATION) of the Beverly Hills Municipal Code to read as follows:

“Smoking is prohibited in the public right of way (including all public sidewalks and alleyways) in the City, except smoking will be allowed if, and only if, the smoker is actively traveling on the public right of way.”


Section 3.      CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance will have a significant adverse effect on the environment because the Ordinance only expands upon existing smoking use restrictions. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

Section 4.      Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

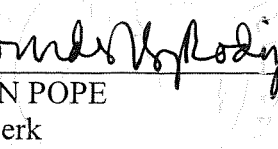
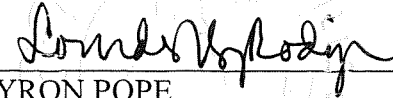
Section 5.      Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 6.      Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.


Adopted: April 4, 2017  
Effective: May 5, 2017

  
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills


ATTEST:

  
  
for \_\_\_\_\_ (SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

# **Attachment 2**



CHAMBER  
of  
COMMERCE



CONFERENCE &  
VISITORS BUREAU  
*Love Beverly Hills*

July 25, 2022

Beverly Hills Health and Safety Commission  
City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, CA 90210

Dear Dr. Chang and members of the Beverly Hills Health and Safety Commission Members:

The Beverly Hills Conference & Visitors Bureau, Rodeo Drive Committee and Beverly Hills Chamber of Commerce jointly write to you in opposition to the complete ban of smoking in Beverly Hills.

While we previously supported increased restrictions on smoking on public walkways and near restaurants, Our customers and visitors have expressed that a total smoking ban in the city would be detrimental to their desire to stay in our city.. As a frame of reference, during the summer of 2018, approximately 7.4M travelers came to our city. Smoking continues to be very popular in many of the domestic and international feeder markets that visit. Beverly Hills is a world-class tourist destination that is a center of luxury and, as part of that experience, we believe that our guests should be able to continue to smoke while moving in the city if that is required to make their stay enjoyable. It is our concern that a complete smoking ban in the city will deter such visitors from staying in Beverly Hills when they can just as easily go to hotels and shop in other areas of Los Angeles County where they will be able to get the experience they desire.

Below is a chart with numbers from the World Health Organization in 2020 which shows the percentage of the population that smokes in our key feeder markets. If we look at just 1% of those total populations and considering that pre-pandemic tourism resulted in \$2.1 billion in direct and indirect spend in the city, we are looking at a loss of at a minimum, \$46.5M to our businesses. Again, this is just for our key feeder markets. We see additional tourism spend from residents of South America, Europe and other Asian countries.

Country	Total Percent of Population	1% of Smoker Population	1% of Direct and Indirect Spend of \$2.1B
Australia	16.20%	0.16%	\$ 3,360,000
Canada	16.50%	0.17%	\$ 3,465,000
China	25.60%	0.26%	\$ 5,376,000
Indonesia	37.60%	0.38%	\$ 7,896,000
Mexico	13.10%	0.13%	\$ 2,751,000
Qatar	11.80%	0.12%	\$ 2,478,000
Saudi Arabia	14.30%	0.14%	\$ 3,003,000
UAE	18.20%	0.18%	\$ 3,822,000
United Kingdom	15.40%	0.15%	\$ 3,234,000
Singapore	15.50%	0.16%	\$ 3,255,000
Switzerland	25.10%	0.25%	\$ 5,250,000
United States	12.50%	0.13%	\$ 2,625,000
<b>TOTAL</b>	<b>\$46,515,000</b>		

As you all know the past few years have been very difficult on the tourism economy and recovery has been filled with many starts and stops. Currently there are many barriers to coming to the United States and the Los Angeles area as a whole. The recent crimes in our city have reached the global press, U.S. visa wait times are 3 to 6 months and of course homelessness in Los Angeles County continues to be a deterrent. We feel that this additional barrier will only give travelers one more reason to view our city as too restrictive and uninviting.

We, as your partners support a healthier way of life and continue to support the existing restrictions on smoking but feel that a total ban would be harmful to our city's economic vitality and ask that you not impose any further tobacco restrictions.

Sincerely,



Todd Johnson  
President and CEO  
Beverly Hills Chamber of Commerce

Sincerely,



Julie Wagner  
CEO  
Beverly Hills Conference & Visitors  
Bureau

Sincerely,



Kathy Davoudi-Gohari  
President  
Rodeo Drive Committee