



STAFF REPORT

AGENDA NO: 10b

MEETING DATE: November 4, 2024

To: Honorable Mayor and City Council

Date: November 4, 2024

From: Michael Guina, City Attorney – (650) 558-7204
Scott Spansail, Assistant City Attorney – (650) 558-7275

Subject: Introduction of an Ordinance Amending Section 8.18.040 of Chapter 8.18 of Title 8 of the Burlingame Municipal Code to Make Permanent a Previously Temporary Ban on Smoking in the Broadway and Downtown Burlingame Pedestrian Retail Districts (CEQA Determination: Exempt Pursuant to State CEQA Guidelines Section 15378 and 15061(b)(3))

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and adopt the first reading of the proposed Ordinance by taking the following actions:

1. Receive the staff report and ask any questions of staff.
2. Conduct a public hearing on the proposed Ordinance.
3. Close the public hearing, discuss the proposed Ordinance, and determine whether to bring the Ordinance back for adoption at a future Council meeting.
4. Direct the City Clerk to publish a summary of the Ordinance at least five days before proposed adoption.

BACKGROUND AND DISCUSSION

At its April 3, 2023 regular meeting, the City Council adopted Ordinance No. 2016, which amended Chapter 8.18, "Smoking" of Title 8 of the Burlingame Municipal Code (BMC) to establish a pilot program that prohibited smoking in the Broadway commercial district for approximately eight months. When the program was adopted, the Council directed that it return prior to expiration to consider whether to make the program permanent, amend it to apply it to other commercial districts within the city, or allow it to expire.

At its October 2, 2023, meeting, the City Council further considered the Broadway pilot program. Following review of a survey that showed general support for this program, the City Council expressed its own support of the ban and discussed expanding the pilot to the City's other main commercial district on and around Burlingame Avenue. During the hearing, the Council also discussed whether this ban should apply to private property, such as back patios of restaurants or

bars, or only within the public right of way. At the conclusion of the hearing, a majority of the City Council expressed that they were in favor of extending the pilot program and expanding it to Downtown Burlingame, but that private property should be exempt from City regulation.

At its November 20, 2023, regular meeting, the City Council adopted Ordinance No. 2021, which expanded the Broadway pilot program to the boundaries of the Downtown Burlingame Business Improvement District. As part of the Ordinance, the Council also created and defined the Broadway and Downtown Burlingame Pedestrian Retail Districts. These districts outline the geographic limits of the current (temporary) ban, and generally mirror the respective Business Districts in these two locations. The Ordinance also directed that the temporary bans would expire on January 1, 2025, unless made permanent by the City Council.

Prior to the implementation of the temporary bans, staff conducted online surveys targeting responses from both business owners and members of the public. In each survey, a large majority of respondents indicated their support of the bans. This general support has continued throughout the implementation at both pedestrian retail districts.

Proposed Ordinance

The proposed Ordinance would make no changes to the current outdoor smoking bans other than removing the language containing the January 1, 2025, expiration date. Thus, if adopted, the proposed Ordinance would make the smoking prohibitions in the Downtown Burlingame and Broadway Pedestrian Retail Districts permanent, until further amended by the City Council.

Tobacco Retailer Permit Program

The proposed Ordinance does not address the City's Tobacco Retailer Permit Program (Burlingame Municipal Code Chapter 8.19).

FISCAL IMPACT

As the temporary bans are made permanent, additional signage may be necessary in the two Pedestrian Retail Districts. This cost can be absorbed by present budget allocations, and no additional fiscal impact is anticipated.

Exhibits:

- Proposed Ordinance
- Staff Report from November 20, 2023