



Staff Reports

File #: 299-2020, **Version:** 1

To: Honorable Mayor and Members of City Council

From: Steve Potter, City Manager

Prepared By: Liz Habkirk, Deputy City Manager

TITLE:

Tobacco/Smoking Regulations

RECOMMENDED ACTION:

Approve the first reading and introduction of an ordinance amending the Napa Municipal Code by repealing Chapter 5.20 (“Cigarette Vending Machines”); repealing Chapter 8.20 (“Smoking”) and replacing it with a new chapter 8.20 (“Smoking Regulations”); and amending sections 12.36.005 (“Definitions”) and 12.36.280 (“Smoking Prohibited in all City Parks”) relating to smoking in City parks.

DISCUSSION:

Over the last several months, the City Council has considered various changes and updates to the Napa Municipal Code (“NMC”) to address issues related to tobacco use and reflect current State of California Code. During this process, the City Manager’s Office has worked in partnership with local students participating in the Friday Night Lights program and representatives from Napa County’s Health and Human Services Department to prepare the presentation and the recommended actions. The City Council has also heard from business owners, product consumers, and industry groups about the impacts of various proposed ordinance changes.

Most recently in July 2020 the Council provided staff with additional direction to address concerns raised about the impacts of potential ordinance changes particularly around the prohibition of flavored loose leaf tobacco and premium flavored cigars, as well as to track efforts at the State Legislature to enact SB 793 which included similar provisions to the City Council’s direction.

SB 793 was passed, as amended with exceptions for flavored loose leaf tobacco, premium cigars, and hookah tobacco retailers, and signed by Governor Newsom on August 29, 2020. The law will take effect on January 1, 2021.

With today’s approval, NMC Chapter 8.20 (“Smoking”) will be repealed and replaced with a new chapter 8.20 (“Smoking Regulations”) to address Council direction provided in July and mirror the new state law and will:

- Broaden the purpose statement to include the protection of public health, safety and welfare relating to smoking;
- Introduce definitions that identify the wide variety of tobacco products covered by this section,

broaden the definition of smoking to include electronic devices, and define flavored tobacco products among other things;

- Identify the minimum age of 21 for purchase of tobacco products, to mirror California Penal Code Ch. 7.308; and
- Ban the sale of flavored tobacco products within the City of Napa with exceptions stated for loose leaf tobacco, premium cigars, and products sold specifically by hookah tobacco retailers.

Additionally, the recommended ordinance continues to include updates to other chapters of the NMC that regulate smoking. These include the repeal of Chapter 5.20 (“Cigarette Vending Machines”) which will now be covered within Chapter 8.20 (“Smoking Regulations”), and amendments to Chapter 12.36 (“Parks and Recreation Area Use Regulations”) to cross-reference the definition of smoking within Chapter 8.20 and to add clarifying language around the prohibition of smoking within a city park.

The new State law becomes effective January 1, 2021, and the proposed ordinance amendments will also mirror this implementation date.

FINANCIAL IMPACTS:

None

CEQA:

The City Manager has determined that the Recommended Action described in this Agenda Report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

DOCUMENTS ATTACHED:

ATCH 1 - Ordinance with Exhibit “A”

EX A - Chapter 8.20 - Smoking Regulations

NOTIFICATION:

Legal notices of report were published in the Napa Valley Register at least 10 days prior to the hearing date.