



## Staff Report

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File #: REPORT 19-0714, Version: 1

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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of November 12, 2019

#### **CONSIDERATION OF PROHIBITION OF RETAIL SALE OF TOBACCO PRODUCTS** (Community Development Director Ken Robertson)

#### **Recommended Action:**

Staff recommends that the City Council discuss and provide direction on whether to prohibit the retail sale of all tobacco products in Hermosa Beach.

#### **Background:**

The City of Hermosa Beach has been addressing public health policies related to smoking and tobacco for several years.

In 2012, the City launched the Healthy Air Hermosa initiative creating a smoke-free environment at public outdoor gathering spaces such as Pier Plaza and the Hermosa Beach Pier.

In 2016, the City of Hermosa Beach adopted an ordinance prohibiting smoking in all public places, including the beach, parks, parking lots and city sidewalks.

On January 8, 2019, the City of Hermosa Beach adopted an ordinance, effective June 1, 2019, prohibiting sales of flavored tobacco products and establishing an annual Tobacco Retailer License for any retailer who sells tobacco products.

On October 10, 2019, Councilmembers Armato and Duclos requested that the City Council discuss and consider prohibition of retail sales of all tobacco products in Hermosa Beach.

#### **Analysis:**

Beverly Hills adopted a "Tobacco Ban" ordinance effective July 5, 2019, which is considered to be the first city in the nation to prohibit tobacco sales.

Details of the Beverly Hills ordinance include:

- No new Tobacco Retailer Permits to be accepted or approved.
- Annual Tobacco Retail Permits can be in effect only until December 31, 2020.
- After January 1, 2021, one Hardship Exemption can be applied for with requested extension

term, which requires business documentation of remaining lease term, percentage of retail sales derived from tobacco products and electronic cigarette paraphernalia, amount of investment in the business, depreciated value of business improvements dedicated to tobacco products, ability to sell other products, opportunity and cost for relocation, business plan demonstrating how long the business will need to sell tobacco and a plan to phase out the sale of tobacco products.

#### Beverly Hills Exemptions:

1. Cigar Lounge-patrons 21 or older, no cigarettes, e-cigarettes, vaping products or flavored tobacco products are permitted to be sold.
2. Hotels-sold to guests only through concierge, guest services, or room service; not publicly displayed. The exception was made due to demand from international visitors.

On October 1, 2019, the Manhattan Beach City Council discussed a ban of all retail sales of tobacco products, electronic smoking devices, and accessories. At that meeting, the direction was made to bring back two ordinances for adoption within 30-60 days that include the following.

1. Ban tobacco completely, with a hardship exemption possible. Effective date to be determined, possibly within 18-24 months.
2. Urgency Ordinance for immediate ban of sale of all flavored tobacco and vape products, and to prohibit issuance of any new Tobacco Retail Licenses.

It should be noted that the current Manhattan Beach tobacco ordinance prohibits flavored tobacco, with exception of mint, menthol, spearmint, and wintergreen flavors and does not prohibit vaping or electronic smoking devices.

Hermosa Beach has been issuing Tobacco Retailer Licenses since June 1, 2019. There have been 14 Tobacco Retail Licenses issued in Hermosa Beach to date.

For purposes of this discussion, four alternatives are suggested for consideration and direction:

1. Prohibit sale of all tobacco products.
2. Prohibit sale of all tobacco products, but allow for hardship exemptions to businesses dependent on tobacco sales revenues.
3. Prohibit issuance of any new tobacco retailer licenses to reduce tobacco sales over time.
4. Continue to issue Tobacco Retailer Licenses and continue ban on flavored tobacco products in Hermosa Beach.

Direction to prohibit sales would also require legal review by the City Attorney before preparation of an ordinance.

#### **General Plan Consistency:**

PLAN Hermosa, the City's General Plan, was adopted by the City Council in August 2017. A prohibition or limitation of tobacco sales supports several PLAN Hermosa goals and policies that are listed below.

*GOVERNANCE: Goal 7. Community sustainability and health are a priority in policy and decision making. Policies 7.1 Integrate health, 7.2 Health conditions, 7.3 Health in all policies, 7.5 Health-promoting uses, and 7.6 Livability principles.*

**Fiscal Impact:**

If tobacco sales are no longer permitted, the impact to the City revenue would include elimination of revenue collected from Tobacco Retailer Licenses, which include the one-time application fee of \$404 (waived for existing retailers) and renewal fee of \$344. There are currently 14 licenses issued with 2 applications pending. Estimated annual loss of revenue based on the renewal of the 14 existing licenses would be \$4,816 (14 licenses x \$344 renewal fee). Sales tax revenue from tobacco sales would also no longer be generated if tobacco is no longer sold in Hermosa Beach.

**Conclusion:**

If deemed appropriate by the City Council, the prohibition of all tobacco sales may be the next step in the City's efforts to promote a healthy environment and lifestyle.

**Attachments:**

1. May 21, 2019 Beverly Hills Staff Report and Attachments
2. October 1, 2019 Manhattan Beach Staff Report and Minutes
3. November 7, 2019 Beach Reporter Article on Manhattan Beach Urgency Vaping Ban

**Respectfully Submitted by:** Christy Teague, Senior Planner

**Concur:** Ken Robertson, Community Development Director

**Noted for Fiscal Impact:** Viki Copeland, Finance Director

**Legal Review:** Mike Jenkins, City Attorney

**Approved:** Suja Lowenthal, City Manager