



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: May 7, 2024
TO: Paul Buddenhagen, City Manager
FROM: John I. Kennedy, City Attorney
Chadrick Smalley, Community Development Director
SUBJECT: Tobacco Retailer License And Smoking Pollution Control Ordinances:

Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 42, ("Tobacco Retailer License Requirements"), To Title 5 Of The Emeryville Municipal Code; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement: CEQA Determination: Exempt Pursuant To Guideline Sections 15378 And 15061(b)(3)

Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Emeryville Amending Sections 5-29.02 And 5-29.09 Of Chapter 29, ("Smoking Pollution Control"), Of Title 5 Of The Emeryville Municipal Code To Add And Revise The Definitions For Certain Terms And Repeal The Exception For Private Smokers' Lounges; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement; CEQA Determination: Exempt Pursuant To Guideline Sections 15378 And 15061(b)(3)

RECOMMENDATION

Staff recommends that the City Council adopt the above-referenced ordinances to add tobacco retailer license requirements to the Emeryville Municipal Code and amend the existing smoking pollution control ordinance to add and revise definitions for certain defined terms and repeal the exception for private smokers' lounges.

DISCUSSION

At its April 16, 2024 meeting, the City Council waived first reading and introduced the attached ordinance amending Sections 5-29.02 and 5-29.09 Of Chapter 29, ("Smoking Pollution Control"), of Title 5 of the Emeryville Municipal Code to add and revise the definitions for certain terms and repeal the exception for private smokers' lounges.

Also at that meeting, the City Council waived the first reading and introduced the attached ordinance adding Chapter 42, ("Tobacco Retailer License Requirements"), to Title 5 of the Emeryville Municipal Code. The Council introduced this ordinance with the following changes to Section 5-42.11 that were not included in the draft included with the staff report for the April 16, 2024 meeting:

5-42.11 – Compliance Monitoring.

(a) Compliance with this Chapter shall be monitored by the Department. In addition, the City may designate any number of additional persons to monitor compliance with this Chapter.

(b) The Department shall conduct at least one Compliance Check every 12-month period. A Compliance Check must also involve verification that the Tobacco Retailer is in compliance with all other requirements of this Chapter.

(c) If the Department determines that a Tobacco Retailer has not complied with the requirements of this Chapter following a Compliance Check, a follow-up Compliance Check shall be conducted within ninety (90) days. The cost for the follow-up Compliance Check shall be paid by the Tobacco Retailer within thirty (30) days after the Department has sent an invoice to the Tobacco Retailer requesting payment.

The staff report for the April 16, 2024 City Council meeting, which provides a detailed explanation of the proposed ordinances, is attached for reference (Attachment 1).

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:

A handwritten signature in blue ink, appearing to read "Paul Buddenhagen", is written over a horizontal line.

Paul Buddenhagen, City Manager

ATTACHMENTS

1. Staff Report prepared for April 16, 2024 City Council Meeting
2. An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 42, ("Tobacco Retailer License Requirements"), To Title 5 Of The Emeryville Municipal Code; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement
3. An Ordinance Of The City Council Of The City Of Emeryville Amending Sections 5-29.02 And 5-29.09 Of Chapter 29, ("Smoking Pollution Control"), Of Title 5 Of The Emeryville Municipal Code To Add And Revise The Definitions For Certain Terms And Repeal The Exception For Private Smokers' Lounges; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement