



Agenda

STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION

Regular Student and Neighborhood Relations Commission Meeting

Monday, September 8, 2014, 6:30 P.M.

City Council Chambers

1 Civic Center Drive

San Marcos, CA 92069

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CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. APPROVAL OF MINUTES – Regular Commission Meeting – April 14, 2014

PUBLIC COMMUNICATIONS (*This is the public's opportunity to address the Commission on items not on the agenda.*)

2. ORAL COMMUNICATIONS

Speakers are limited to five minutes. Please complete a "Request to Speak" form and place in basket provided.

3. NEW BUSINESS

A) Elect Chair

B) Electronic Cigarettes (Vaping Device) Draft Ordinance Provisions

4. REPORTS

A) Sheriff's Department Report – Sergeant Haynesworth

B) Code Compliance Report – Building Official Reynolds

STAFF COMMENTS

COMMISSION COMMENTARY

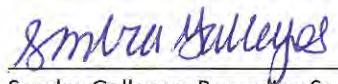
ADJOURNMENT

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF SAN MARCOS)

I, Sandra Gallegos, Recording Secretary of the Student and Neighborhood Relations Commission, hereby certify that I caused the posting of this agenda in the glass display case at the north entrance of City Hall on Friday, September 5, 2014, at 5:00 p.m.

Dated: September 5, 2014



Sandra Gallegos, Recording Secretary



MINUTES

Regular Meeting of the Student and Neighborhood Relations Commission

MONDAY, APRIL 14, 2014

City Council Chambers

1 Civic Center Drive, San Marcos, CA 92069

CALL TO ORDER: Chairwoman Kildoo called the meeting to order at 6:30 PM.

PLEDGE OF ALLEGIANCE: Led by Chairwoman Kildoo.

ROLL CALL:

PRESENT:	CAVANAUGH, CLARK, K. KILDOO, S. KILDOO, KRETCHMAN, MARTINEZ, PARIS, TOVAR, WALSH
ABSENT:	NONE

ALSO PRESENT: Deputy City Manager Romero, Interim Building Official Reynolds, Housing & Neighborhood Services Director Schwarm, Sergeant Haynesworth and Recording Secretary Gallegos.

1) APPROVAL OF MINUTES:

Correction to the February 10th minutes: Commissioner Martinez did not attend was absent from the February 10, 2014 meeting.

MOVED BY S. KILDOO, SECONDED BY PARIS, TO APPROVE THE REGULAR MEETING MINUTES OF 2/10/14 AS CORRECTED.

AYES:	CAVANAUGH, CLARK, K. KILDOO, S. KILDOO, KRETCHMAN, PARIS, TOVAR, WALSH
NOES:	NONE
ABSTENTION:	MARTINEZ
ABSENT:	NONE

2) ORAL COMMUNICATIONS – None



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 2 of 11

3) PRESENTATIONS:

A) SAN MARCOS PREVENTION COALITION

KC STRANG, program manager with the San Marcos Prevention Coalition provided the presentation. Their mission is to reduce youth alcohol and drug use and advocate for safe and healthy neighborhoods by improving environmental norms and community policies and enhancing efforts to promote and deliver effective substance abuse prevention. The Coalition was founded by Mr. Strang, Audra Wallace, she serves as the Chair and Leticia Robles, she serves as the Media and Community Relations Specialist. All three of them are parents and residents of San Marcos.

In response to questions from the Commission Mr. Strang stated the Coalition has been in existence for a little over two years. Last year they received a federal grant from the Office of National Drug Control Policies that will sustain the Coalition for the next five years.

4) NEW BUSINESS:

A) BARHAM/INDUSTRIAL PARKING ISSUES:

HOUSING & NEIGHBORHOOD SERVICES DIRECTOR SCHWARM provided the staff report. Staff's recommendation is that this Commission recommends to the Traffic Commission that the Barham/Discovery Industrial Area be posted for 2-hour parking and no parking on street sweeping days, and that staff report back to this Commission on the results of the pilot program six months after implementation.

DAN HOLLINGSWORTH stated that he and his brother own the property at 201 Trade Street. He came to the meeting to become informed and the presentation by Director Schwarm answered most of his questions.

CHAIRWOMAN KILDOO asked if there are currently signs that say no overnight parking in the industrial area. Director Schwarm responded there is a city ordinance that does not allow the parking of commercial vehicles between 2 a.m. and 6 a.m. in industrial and commercial areas. Several businesses commented in the survey that there is a problem with semi-trucks parking overnight.

CHAIRWOMAN KILDOO asked if the Cal State campus police are adequately staffed to enforce the parking restrictions. **DIRECTOR SCHWARM** indicated that the Cal State campus police chief is in the audience tonight. He also stated that campus police has



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 3 of 11

been enforcing the one hour parking restriction near The QUAD student housing. The industrial area is quite large and that would be up to Cal State's chief of police to determine if they have adequate time to enforce the city's parking restrictions.

CAL STATE CHIEF OF POLICE BOB McMANUS indicated they would need to look at it on a case by case basis. They can assist with enforcing the parking restrictions but at this point they will not take it on as a priority.

CHAIRWOMAN KILDOO asked if there are businesses that are open on weekends and **DIRECTOR SCHWARM** responded that according to the surveys 50% of the businesses operate on the weekends. He indicated that eventually they would need to implement the parking restrictions area-wide because if they concentrate in one spot the students will find another area to park in.

CHAIRWOMAN KILDOO stated that at one point the plan was to build a cross over from The QUAD to the campus to eliminate students wandering across the street.

DEPUTY CITY MANAGER ROMERO stated that a pedestrian bridge is still planned for The QUAD to cross over onto Campus Way and it will be built when they start constructing that portion of Campus Way and Barham.

DIRECTOR SCHWARM stated that the prime free parking spot for students is Industrial and the students are crossing the street illegally to get from Industrial to school. Students will cross as soon as they can where ever there is an opening. There is a sizeable hill coming west bound on Barham that drops down as you go under the Sprinter which makes it difficult to see pedestrians crossing at Industrial especially if a car is moving at a high rate of speed.

COMMISSIONER MARTINEZ stated that one of the issues he has is that there are businesses where employees are not able to park on the premises and if there is a two hour restriction on the street, where are those employees going to park. The other issue is that there was only a 17% response out of 136 businesses. It seems that the businesses do not appear to want restrictions at this point. He would lean towards restricting parking on street sweeping days. He asked what the university's position on this is.

DIRECTOR SCHWARM indicated that the businesses that said they do not want parking restrictions also said that they want parking permits for their employees and customers to be able to park on the street. **COMMISSIONER MARTINEZ** stated that would be too much bureaucracy in his view. **DIRECTOR SCHWARM** stated that he agreed. He also



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 4 of 11

stated that if you went to the businesses that responded to the survey, you will see that a few are using their parking spaces for storage or their parking lot is very small. Most of the businesses in that area have adequate parking with very few vehicles parked on-site. He stated that the one business that complained the "loudest" is a high tech business located at the end of Distribution. The business is doing very well and has two locations. Their parking lot is full and some employees have to park on the street as well as customers. This particular business is against parking restrictions and they want a free parking permit.

COMMISSIONER MARTINEZ talked about the trucking company in that area and that he has seen how difficult it is for the trucks to turn into their parking lot because of all the cars parked on the street. He stated there is a problem but he does not know what the solution is at this time. He asked again what the university's position is on this.

COMMISSIONER CLARK stated that they understand the issue with the student parking permits being as expensive as they are but there are legitimate reasons for that. They would like all their students to park on campus and be safe and not be running across streets. At some point the parking restrictions will have to be considered otherwise it is an attractive nuisance to have free parking available where it is, within proximity to the campus.

COMMISSIONER MARTINEZ states that the only issue he has is that the two hour parking restriction is not practical for employees that have to park on the street.

CHAIRWOMAN KILDOO indicated that businesses may have to adapt to some sort of on premises parking for customers so they are not impacted and a combination of permitted parking for employees for certain business hours. For now she would like to see something done to restrict overnight parking because that can lead to other issues.

DEPUTY CITY MANAGER ROMERO indicated that staff is trying their best to illicit as much response as they can from that neighborhood so they can do the right thing. The survey was mailed to the businesses and the parking enforcement officer also went to the businesses to invite them to the meeting and to give them the survey to fill out.

COMMISSIONER KILDOO stated that when he was a Traffic Commissioner they looked at this issue in the industrial park off of Los Vallecitos across from Palomar College. It is a challenge for every business. They fight for the need for customer parking and employee parking. They would like to have the kind of available parking that would happen if there were no colleges. With the colleges on both ends of town it does really impact the adjoining areas because of the human nature of students looking for a



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 5 of 11

cheaper way to go. The solutions are challenging and most businesses are reluctant to look at permitting with cost. Even the idea of free permitting is off-putting because they then have to get permitting for employees and hand out permits to their customers to park on the street. It starts another whole level of thought process and they don't want to do that. He stated that this is a very good first step. He does not know if it is the perfect solution but it is the first step to try and create the opportunity for students to realize that they need to park on campus, and businesses in the adjoining area should not be forced to pay the price. He does not feel they are ready to go into a permit parking discussion yet but he thinks this is a very good first step with minimal impacts to businesses and still with the hope of reducing some of that student impact. He supports staff's recommendations.

COMMISSIONER WALSH stated that he agreed with almost every staff recommendation with the exception of the recommendation to offer students a reduced fine if they provide proof of CSUSM parking permit purchase because students will borrow someone else's permit so they can get the reduction. A reduction would not encourage students to buy a parking pass; they would just borrow one and continue to do what they have been doing. **DIRECTOR SCHWARM** explained that they would only reduce the fine if the name of the person on the parking permit matches the name of the registered owner.

COMMISSIONER KRETCHMAN asked if there is a short term solution for overnight parking and visitors coming on the weekends. **COMMISSIONER CLARK** stated that they could work something out with the university parking office to provide a parking permit that is valid only overnight for one or two nights at a time. The only parking that is provided in and around The QUAD at this point is intended to serve the retail spaces that are along the first floor of those units that face Campus Way. Students from The QUAD and their guests need to park on campus in Lot O near the existing residential facilities or in the parking structure across the street.

DEPUTY CITY MANAGER ROMERO stated that one of the caveats for the student housing was to get an affiliation agreement to allow those students that were off campus to park on campus for 24 hours if they had a car. There was a provision for parking to be made but what they did not envision is the students that live at The QUAD not buying a parking pass.

CHAIRWOMAN KILDOO stated she is also concerned how the two hour parking restriction will affect employees. **DIRECTOR SCHWARM** stated that from surveys they received, 5 or 6 do not have adequate employee parking on the premises. Some of that is due to shifts overlapping or they fluctuate in their staffing levels when production is



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 6 of 11

rampant. There are a number of businesses that have few cars in their parking lots. He indicated that if they marked the curb "employee parking only" they would then have to verify that and that goes back to the permit issue.

COMMISSIONER KILDOO indicated that about 20% of the businesses need off-street parking and that is a big number. He understands the issues going on there but he does not want to penalize the wrong folks. He suggested that instead of staff coming back in 6 months with the results of this pilot program that he would like to change it to 3 months so that if there is a problem for businesses that is really severe and if they are getting feedback that is really negative that they have a chance to react to that in a more timely way.

COMMISSIONER MARTINEZ asked that in the future when this whole area is developed is there going to be other parking available for businesses and individuals and are they going to have this same issue arise. **DIRECTOR SCHWARM** responded that in the university district there will be parking structures for that development, more for the residential development. The industrial side on the east side of the tracks will still have the standard parking as it is today, off-street and on-street.

COMMISSIONER MARTINEZ asked what the cost of the signage will be. **DIRECTOR SCHWARM** responded that it will cost about \$9,000 to install the 2 hour parking and the no parking on street sweeping day signs throughout the industrial park. **COMMISSIONER MARTINEZ** asked that if they determine that the signs are not practical, what is the cost to remove them. **DIRECTOR SCHWARM** explained that only the 2 hour parking signs would be removed and the no parking on street sweeping day signs would remain. The 2 hour parking signs could be replaced with employee parking only signs. If they were to do that, they would verify that the business truly has a need for on-street parking. If the business is using the on-site parking for storage or something other than parking that is not going to be a reason for on-street parking.

CHAIRWOMAN KILDOO stated that she would like staff to report back to the Commission after the start of the school year so there is enough time for the program to be in place. If the signs go up in late June and school doesn't start until August they will not know how the program is working.

COMMISSIONER KILDOO MOVED, AND COMMISSIONER KRETCHMAN SECONDED TO RECOMMEND TO THE TRAFFIC COMMISSION THAT THE BARHAM/DISCOVERY INDUSTRIAL AREA BE POSTED FOR 2-HOUR PARKING AND NO PARKING ON STREET SWEEPING DAYS AND THAT THAT STAFF REPORT BACK TO THIS COMMISSION IN



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 7 of 11

THREE MONTHS, INSTEAD OF SIX MONTHS, AFTER THE IMPLEMENTATION OF THE PILOT PROGRAM AND AFTER SCHOOL HAS STARTED AT CAL STATE SAN MARCOS.

AYES:	CAVANAUGH, CLARK, K. KILDOO, S. KILDOO, KRETCHMAN, MARTINEZ, PARIS, TOVAR, WALSH
NOES:	NONE
ABSENT:	NONE

5) E-CIGARETTES/VAPING:

DEPUTY CITY MANAGER ROMERO provided the staff report. Staff's recommendation is that the Commission give staff direction on a potential ordinance that will prohibit e-cigarettes.

DANA HOSFORD of Vista Community Clinic and the Smoke Free North County Project stated that youth are rapidly adopting the e-cigarettes. The easy access to these devices is the reason she is here today. In March of this year Vista Community Clinic and North Inland Community Prevention Program visited all stores in San Marcos that have a tobacco license. They found that 57% sell e-cigarettes and of those 41% had the devices near the register and 23% near ice cream and gum. Recent studies have proven they not just contain water but carcinogenic, toxins and lead as well. She encouraged the Commission to move forward with adopting the ordinance.

KC STRANG of the San Marcos Prevention Coalition and resident stated that the Center for Disease Control and Prevention reported that the number of middle and high school students using the e-cigarettes doubled from 2011 to 2012. He has personally seen an increase at local parks and outdoor dining establishments. He indicated that it is not just liquid nicotine that can be vaped but also meth, heroin, and a high concentrated wax form of marijuana. The nicotine e-juice is completely unregulated. He agrees that vaping should not be allowed in public places where there is a smoke free policy.

AUDRA WALLACE of the San Marcos Prevention Coalition and resident is a counselor at Twin Oaks High School. She provided statistics with regard to vaping devices from a grant she wrote on tobacco use prevention and education. In 2011 there were 3 suspensions in the San Marcos school district for tobacco or use possession and in 2012 there were 22 suspensions. This year the school's Board of Directors amended the tobacco free policy to include vaping devices. This year suspensions are down to 7 thus far. In the state of California there was a 39.5% increase in vaping devices from 2008 to 2011. While there has been a decline in smoking rates there has been an increase in vaping rates.



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 8 of 11

CHERRYL BAKER, resident, parent and high school counselor is concerned with the growing trend in vaping and the use of electronic vaping devices. Her concerns are based on experience and conversations with students. The students are doing this for novelty and social reasons and think that vaping is harmless and that it is being normalized. One way to send a message that vaping is harmful is to prohibit vaping at any location in our city that is already smoke free.

LETICIA ROBLES of the San Marcos Prevention Coalition stated that in California tobacco use has decreased over the years. In San Marcos, tobacco is the third most abused substance among students, according to the California Kids Survey. E-cigarettes make it easier for kids and first timers to begin smoking. She stated that 13% of 7th graders said they are very easy to obtain and 42% for 11th graders which almost triples the accessibility between 7th and 11th grade. Of those that said they have tried smoking, 8% were 7th graders and 25% were 11th graders. She asked that e-cigarettes and vaping be banned where smoking is prohibited and on behalf of the Latino families in San Marcos she urged the Commission to consider prohibiting e-cigarettes.

CHRISTINA LINDEL parent, resident and past president of the school district's English Learner Committee stated there is a misunderstanding in the Spanish speaking community of what these devices actually are and how harmful they are to children. About 50% of the San Marcos school district is Latino and there is not enough representation or people willing to speak on their behalf. She asked the Commission to consider not allowing the e-cigarettes where smoking is prohibited.

SERGEANT HAYNESWORTH stated that currently the e-cigarettes are illegal to possess even though law enforcement might suspect there is illegal substances being consumed in them, they do not have probable cause to inspect or confiscate unless the individual has search conditions given by the court. They do suspect a lot of illegal things going on with these. He is in favor of prohibiting them.

CHAIRWOMAN KILDOO stated there is a lot of confusion as to what these are; some think it is just harmless water vapor. A major concern is that they are not regulated by federal government or anyone else. She encouraged staff to consider outdoor dining spaces and parks.

COMMISSIONER KILDOO indicated there are rarely issues that come before him that are as clear cut as this one. There is no reason to allow e-cigarettes. At the very least they should be made illegal in all places where tobacco is illegal in the city. The potential for damage and harm is great and should be dealt with quickly before it becomes a problem.



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 9 of 11

COMMISSIONER KRETCHMAN stated that the current ASG has been doing student polling on campus as to whether to allow these devices on campus. There is issue with students and professors smoking them in the classrooms. She is glad this has been brought to their attention.

COMMISSIONER TOVAR expressed that he was concerned as to how this policy could be enforced.

COMMISSIONER PARIS indicated that the community where she lives has banned them and a city ordinance would help back up their rules and regulations.

COMMISSIONER MARTINEZ stated that several cities have ordinances and agrees that San Marcos should also. He asked if our state legislators have been approached about a state wide ban.

DANA HOSFORD indicated there are a few bills being proposed but nothing has yet gone forward. They are still on committees and they are two year bills.

CHAIRWOMAN KILDOO stated that this is where the cities have the advantage of being able to move a little more quickly than the state legislature.

COMMISSIONER WALSH clarified that they are recommending to city staff to bring back an ordinance. **DEPUTY CITY MANAGER ROMERO** indicated that staff is looking for direction and what to focus on. It is her understanding from the discussion that they want to prohibit e-cigarettes where smoking is currently prohibited, consider prohibiting them in outdoor dining establishments, and prohibit sale of e-cigarettes to minors. **CHAIRWOMAN KILDOO** asked that they also consider signage.

COMMISSIONER CLARK MOVED TO MAKE THE RECOMMENDATIONS AS REITERATED BY DEPUTY CITY MANAGER ROMERO, COMMISSIONER KILDOO SECONDED.

AYES:	CAVANAUGH, CLARK, K. KILDOO, S. KILDOO, KRETCHMAN, MARTINEZ, PARIS, TOVAR, WALSH
NOES:	NONE
ABSENT:	NONE

DEPUTY CITY MANAGER ROMERO indicated this will come back for final review and recommendation to the City Council at the September meeting.

6) REPORTS



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 10 of 11

A) SHERIFF'S DEPARTMENT REPORT

Sergeant Haynesworth stated that the data analyst that prepares the San Marcos disturbance calls report retired unexpectedly. He reported on a human trafficking undercover operation that took place in San Marcos. He stated they will be conducting these types of operations two to three times a month.

B) CODE COMPLIANCE REPORT

Interim Building Official Reynolds stated that Code Compliance has been very busy. None of the cases they are currently working are student related or related to noise.

STAFF COMMENTS – None

COMMISSION COMMENTARY

COMMISSIONER MARTINEZ stated he was appointed to the city's Budget Review Committee. Project "P" – "Powdering" the "P" Mountain

COMMISSIONER TOVAR spoke about some fires that were set in a couple of the men's restrooms at Palomar College in December and February. The arsonist was using toilet paper and paper towels to start the fire. There was no serious damage and no one was injured.

COMMISSIONER KRETCHMAN stated that Palomar College will be holding commencement on May 16th. She spoke about Project P a yearly project that re-powders the "P" on the hill behind the college. This event will be held Friday, April 25th and starts at 8:00 a.m. The student government is helping to host a UCLA STOMP (Student Transfer Opportunity and Mentor Program) Conference and they are busing about 50 students to Los Angeles. This event is also being held on April 25th. She indicated there are various campus events going on throughout the next few weeks with different clubs and organizations. The humanities building is just about finished and they will be moving in over the summer semester and will officially open in the fall. Directly behind that building they will be starting construction on the new library. She has noticed on her drive to work a lot of movement going on with the new Palomar Station and there is a lot of talk on campus about the extra foot traffic that might be accompanying that new development.

COMMISSIONER CLARK stated that Cal State San Marcos commencement will be held May 16th and May 17th. Two ceremonies will be held each day with the largest ceremony taking place the morning of the 17th. A campus open house was held this past Saturday and 675 students



Regular Meeting of the Student and Neighborhood Relations Commission

Monday, April 14, 2014 | Page 11 of 11

plus guests attended. It was such a great success that they are thinking of making it an annual event once again. Tomorrow is the ribbon cutting ceremony for the Student Union and today they started a two week long grand celebration.

COMMISSIONER WALSH stated this was his last meeting as he will be graduating in May. His fellow commissioners thanked him for his participation and wished him well.

COMMISSIONER KILDOO spoke about the Chamber of Commerce street fair. They had the largest attendance thus far, about 15,000. A lot of businesses that were at the fair said there was more participation and sales this year.

COMMISSIONER PARIS stated that the San Marcos Senior Services Foundation is now the Foundation for Senior Well Being. They are excited to get their new name out and to let the community know what they are about.

CHAIRWOMAN KILDOO stated that the Foundation for Senior Well Being is hoping to get interaction from both college campuses. The trees for the annual festival of trees will be decorated this year at The QUAD and they hope to get involvement from Cal State and Palomar College.

ADJOURNMENT: Chairwoman Kildoo adjourned the meeting at 8:35 PM.

KATHLEEN KILDOO, CHAIR
STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION
CITY OF SAN MARCOS

ATTEST:

SANDRA GALLEGOS, RECORDING SECRETARY
CITY OF SAN MARCOS



Report

STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION

CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CA 92069
(760) 744-1030
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MEETING DATE: September 8, 2014

SUBJECT: Electronic Smoking Devices

Recommendation:

Discuss potential amendments to the San Marcos Municipal Code (SMMC) related to Chapter 8.80 "Smoking in Certain Places," and Chapter 10.10 "Youth Access to Tobacco."

Introduction

At the Student and Neighborhood Relations Commission meeting of April 14, 2014, the Commission instructed staff to bring back potential amendments to the SMMC restricting the use of electronic smoking devices.

Electronic cigarettes or e-cigarettes are electronic/battery operated devices that can be used to deliver an inhaled dose of liquid nicotine or other substances. To date over 50 local jurisdictions have regulated e-cigarettes statewide. The majority of these ordinances prohibit the use of e-cigarettes in the same places where smoking is prohibited. Locally, the cities of Oceanside, Solana Beach, Encinitas, Vista, Carlsbad, El Cajon and Poway have recently adopted e-cigarette regulations.

Discussion:

Attached for the Commission to consider are potential amendments to the SMMC. The first amendment is to Section 8.80.020, adding language to the definition of smoke or smoking to include electronic smoking or vaping.

The second amendment relates to Chapter 10.10. The additional language includes adding definitions related to electronic smoking devices and replacing the word tobacco products with smoking materials to capture both tobacco products and electronic smoking devices and paraphernalia.

Actions:

Should the Commission concur in the amendments to SMMC, the Commission can approve the language insertions and deletions and recommend the changes to the City Council.

Attachment(s)

San Marcos Municipal Code Chapters 8.80 and 10.10
Language amendments to Chapter 8.80 and 10.10

Prepared by:

Lydia Romero

Lydia Romero, Deputy City Manager

AGENDA ITEM

3B

CHAPTER 8.80**SMOKING IN CERTAIN PUBLIC PLACES****SECTIONS:**

8.80.010	Purpose of Chapter
8.80.020	Definitions
8.80.030	Prohibitions
8.80.040	Designation of Smoking Areas
8.80.050	Optional Prohibition
8.80.060	Posting of Signs
8.80.070	Exceptions to Article
8.80.080	Enforcement and Appeal

8.80.010 Purpose of Chapter. Because smoking of tobacco or any other weed or plant, is a positive danger to health and cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined places, and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco, or any other weed or plant, in public places of employment, except in designated smoking areas.

8.80.020 Definitions.

(a) Smoke or smoking as defined in this chapter shall mean and include the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.

(b) Public place shall mean any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theaters, waiting rooms, reception areas, educational facilities and public transportation facilities. A private residence is not a public place.

(c) Place of employment shall mean any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to work areas, employee lounges, conference rooms, and employee cafeterias. A private residence is not a place of employment.

8.80.030 Prohibitions. No person shall smoke in a public place or place of employment, except in designated areas.

8.80.040 Designation of Smoking Areas. Smoking areas may be designated in public places and places of employment by proprietors or other persons in charge except in retail stores, retail service establishments, food markets, public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, pharmacies, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by law, ordinance or regulation. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers to the maximum extent possible within existing facilities. Restaurants covered by the provisions of this chapter shall designate an adequate amount of seating capacity to sufficiently meet the demands and shall inform all patrons that a no-smoking section is provided.

8.80.050 Optional prohibition. All managers and owners of any establishments serving or doing business with the public may at their discretion post no-smoking signs within various areas of their businesses and utilize the full right of the provisions of this chapter. No public place other than the ones enumerated in section 8.80.070 shall be designated as a smoking area in its entirety.

8.80.060 Posting of signs. Signs which designate smoking or no-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered in this chapter. No-smoking signs shall be specifically placed in retail food production and marketing establishments, including grocery stores and supermarkets open to the public, so they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. The manner of such posting including the wording, size, color, design, and place of posting, whether on the walls, doors, tables, counters, stands or elsewhere shall be at the discretion of the owner, operator, manager, or other person having control of such room, building or other place so long as clarity, sufficiency, and conspicuously are apparent in communicating the intent of this chapter.

8.80.070 Exceptions to Chapter. Exceptions to the requirements of this chapter shall be as follows:

(a) Individual private offices, hotel and motel meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, private hospital rooms, psychiatric facilities, jails, bars, and stores that deal exclusively in tobacco products and accessories.

(b) Restaurants or eating establishments with an eating capacity of less than twenty (20) persons. Those with a seating capacity of less than twenty (20) shall have the option of designating a no-smoking section or allowing or prohibiting smoking throughout the establishment.

(c) Any owner or manager of a business or other establishment subject to this chapter may apply to the City Manager for an exemption or modification of the provisions of this chapter due to unique or unusual circumstances or conditions.

8.80.080 Enforcement and Appeal.

(a) The City Manager shall be responsible for compliance with this chapter when facilities which are owned, operated or leased by the City of San Marcos are involved.

(b) The owner, operator, or manager of any facility, business, or agency within the purview of this chapter shall comply herewith. Such owner, operator, or manager shall post or cause to be posted all no-smoking signs required by this chapter. Such owner, operator, or manager shall not allow service to any person who violates this chapter by smoking in a posted no-smoking area.

(c) It shall be the responsibility of employers to disseminate information concerning the provisions in this chapter to employees.

(d) The provisions of this chapter shall be effective May 1, 1983, excepting that those provisions pertaining to places of employment shall apply only to places of employment of the City of San Marcos, until July 1, 1984, at which time this chapter becomes applicable to all places of employment as well.

CHAPTER 10.10

YOUTH ACCESS TO TOBACCO

SECTIONS:

- 10.10.010 Definitions**
- 10.10.020 Prohibitions**
- 10.10.030 Location of Tobacco Products and Advertising Inside Retail Establishments**
- 10.10.040 Exceptions to Location of Tobacco Products and Advertising Inside Retail Establishments**
- 10.10.050 Non-Retaliation**
- 10.10.060 Conflicts With Other Applicable Laws**
- 10.10.070 Violation-Enforcement and Penalties**

10.10.010 Definitions.

- (a) *Advertising* means printed matter that calls the public's attention to things for sale.
- (b) *Advertising display* means a sign, sign-board, poster, or banner that is temporarily or permanently affixed to the ground, sidewalk, a pole or post, or a building, or is displayed in the windows of a commercial establishment, and that is used to advertise or promote products.
- (c) *Arcade* is any establishment within the City of San Marcos (other than a pool hall, billiard hall or card room) open to the public with six or more games of skill or amusement installed on the premises.
- (d) *Business* means any sole proprietorship, joint venture, corporation or other business entity formed for profit making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medicinal, dental, engineering, architectural or other professional services are delivered.
- (e) *City* shall mean the City of San Marcos.
- (f) *Employee* means any person who is employed by an employer in consideration for direct or indirect wages or profit, and any person who volunteers his or her services for a non-profit entity.
- (g) *Minor* means any individual who is less than eighteen (18) years old.
- (h) *Non-profit entity* means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational-character building, political, social or other similar purpose, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a *non-profit entity* within the meaning of this section.
- (i) *Person* shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(i) *Playground* means any outdoor premises or grounds owned or operated by the City, a public or private school, child care center, youth or recreational center, that contains any play or athletic equipment used or intended to be used by minors.

(k) *Self-service merchandising* means open display of tobacco products and point-of-sale-tobacco-related promotional products that the public has access to without the intervention of an employee.

(l) *Tobacco product* means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhaling or other manner of ingestion.

(m) *Tobacco retailer* shall mean any person or governmental entity that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use.

(n) *Tobacco vending machine* means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.

(o) *Vendor-assisted* means only a store employee has access to the tobacco product and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.

10.10.020 Prohibitions.

(a) No person or business shall engage in the sale of tobacco products without first posting a plainly visible sign at the point of purchase of tobacco products which has wording similar to: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. PHOTO IDENTIFICATION IS REQUIRED OF PURCHASERS APPEARING TO BE 21 AND YOUNGER." The letters of the sign shall be at least one quarter inch (1/4") high.

(b) No person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance shall sell, offer to sell, or permit to be sold any tobacco product to an individual without requesting and examining identification of customers appearing to be twenty-one (21) and younger for the purpose of establishing the purchaser's age as eighteen (18) years or greater, unless the seller has some other reasonable basis for determining the buyer's age.

(c) No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

(d) It shall be unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for sale any tobacco product by means of self-service merchandising or by any means other than vendor-assisted sales as defined in Section 10.10.010(o), above. (Ord. No. 2004-1219, 1/27/04)

(e) No person, business or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any tobacco vending machine for the purpose of selling or distributing any tobacco product except as allowed hereinafter. Operating and maintaining a vending machine for dispensing cigarettes or other tobacco products shall be allowed and such machines or machine may be located in any business premises from which minor persons are excluded by law.

(f) It shall be unlawful for any person, business, or tobacco retailer to distribute "free sample" tobacco products, except in enclosed areas where minors are not permitted. A "free sample" does not include a tobacco product that is provided in connection with: 1) the vendor-assisted purchase, exchange or redemption for proof of purchase of any tobacco products after age verification is performed as set forth in Section 10.10.020(b), above, including, but not limited to, a free offer in connection with the purchase of tobacco products, such as a "two-for-one" offer; or (d) the conducting of consumer testing or evaluation of tobacco products with persons after age verification is performed as set forth in Section 10.10.020(b), above. (Ord. No. 2004-1219, 1/27/04)

10.10.030 Location of Tobacco Products and Advertising Inside Retail Establishments.

It shall be unlawful for any person, business, or tobacco retailer to place or maintain, or cause to be placed or maintained, any display containing tobacco products. (Ord. No. 2004-1219, 1/27/04)

10.10.040 Exceptions to Location of Tobacco Products and Advertising Inside Retail Establishments.

(a) Section 10.10.030 does not apply to commercial establishments where access to the premises by persons under eighteen (18) years of age is prohibited by law.

(b) Section 10.10.030(a) does not apply to displays in any establishments that are located behind a counter and not accessible to patrons unless vendor-assisted, or are located in other restricted areas that are not accessible to patrons unless vendor-assisted. (Ord. No. 2004-1219, 1/27/04)

10.10.050 Non-Retaliation.

(a) No person or employee shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant agrees to abide by the provision of this article.

(b) No person shall intimidate or threaten any reprisal or effect any reprisal for the purpose of retaliating against another person because such other person seeks to attain compliance with provisions of this article.

10.10.060 Conflicts With Other Applicable Laws.

This article shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws. Nor shall this article be construed as cause for breach of any pre-existing private contract, or cause for interference with regulations imposed by state or federal law or related to interstate commerce.

10.10.070 Violation-Enforcement and Penalties.

(a) Any person, business or tobacco retailer who violates any provision of this article shall upon conviction thereof, be guilty of a misdemeanor offense, punishable as provided in Section 1.12.020 of this code.

(b) The owner, operator or manager of any public place or place of employment within the purview of this article shall comply herewith. Such owner, operator or manager shall post or cause to be posted all signage required by this article.

(c) It shall be the responsibility of employers to disseminate information concerning the provisions of this article to employees.

(Ord. No. 99-1066, 7/13/99)

Code Amendment to Chapter 8.80 of the San Marcos Municipal Code “Smoking in Certain Public Places”

- New sections is denoted by italics and bold typeface

Section 8.80.020 Definitions

(A) Smoke or smoking as defined in this chapter shall mean and include the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind ***or the carrying or use of an activated or functioning electronic or battery-operated device, the use of which may resemble smoking (commonly known as “vaping,”) that can be used to deliver an inhaled dose of nicotine or other substances. Electronic smoking device includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, an electronic cigar, electronic cigarillo, an electronic pipe, an electronic hookah, or any product name or descriptor. Electronic smoking device does not include any product specifically approved by the United State Food and Drug Administration for use in the mitigation, treatment or prevention of disease.***

Code Amendment to Chapter 10.10 of the San Marcos Municipal Code “Youth Access to Tobacco”

- New sections is denoted by italics and bold typeface

Section 10.10.10 Definitions

(p) ***Electronic Smoking Device means an electronic and/or battery operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. Electronic smoking device includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, an electronic cigar, electronic cigarillo, an electronic pipe, an electronic hookah, or any product name or descriptor. Electronic smoking device does not include any product specifically approved by the United State Food and Drug Administration for use in the mitigation, treatment or prevention of disease.***

(q) ***Electronic Smoking Device Paraphernalia means cartridges, cartomizers, e-liquid, smoke juices, tips, atomizers, electronic smoking device batteries, electronic smoking chargers and any other item specifically designed for the preparations, charging or use of electronic devices.***

(r) ***Smoking Materials means tobacco products; an electronic smoking device and electronic smoking device paraphernalia.***

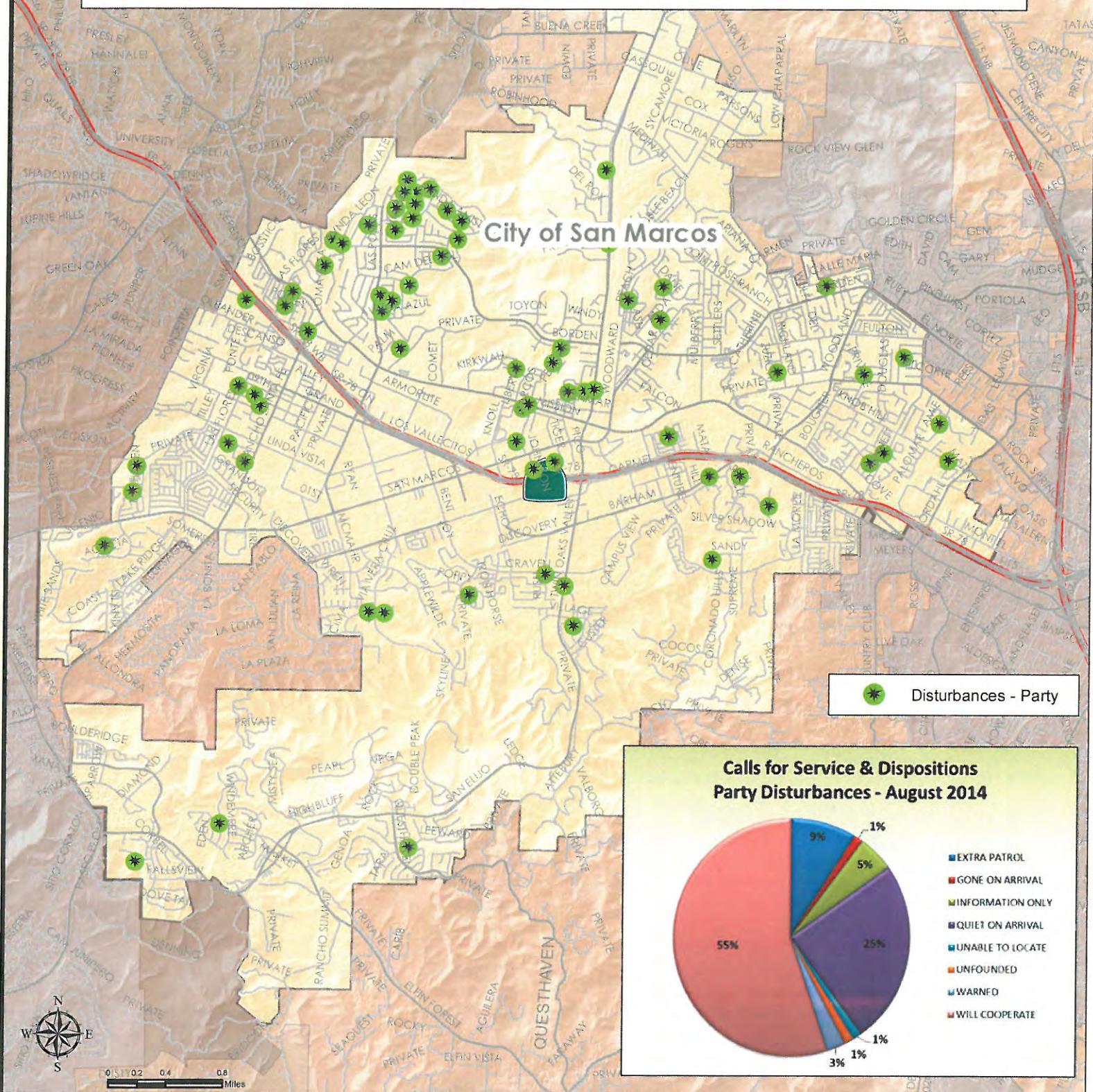
(o) ***Vendor-assisted means only a store employee has access to the ~~tobacco product~~ *smoking materials* and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.***

Remainder of the 10.10 Sections

Change the word “Tobacco Products” to “Smoking Materials” in all the sections listed in 10.10.020, 030, 040, 060, 070.

Disturbance "Party" Calls For Service

August 2014



San Marcos Sheriff's Station - City of San Marcos

AGENDA ITEM
4A



Data Source: CAD
Prepared by San Marcos Crime Analysis
August 2014



Created by Crime Analysis, September, 2014