

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: October 20, 2016
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: **Director's Report**

COUNCIL ACTIONS

- Council awarded a contract with Hanley General Engineering Corporation, in their low bid amount of \$140,790 for construction of the Sea Landing Passenger Access Improvements, (ADA compliant gangway and wooden boardwalk behind the building) and authorized the execution of the contract and approved expenditures up to \$14,100 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment. As a contingency, Council also authorized the appropriation of an additional \$41,000 (10% of the contract) from the Waterfront Capital Fund for the Sea Land Passenger Access Improvements.
- Council approved a five-year lease agreement with one, five-year option with Nature's Own Gallery Inc., at an average initial base rent of \$2,221 per month, adjusted seasonally, for the 423 square foot retail shell shop located at 217 Stearns Wharf, Suite C.
- Council approved a five-year lease agreement with one, five-year option with Jon Marshall and Melissa Schumacher, doing business as Deep Blue Sea, at an average initial base rent of \$2,248 per month, adjusted seasonally, for the 392 square foot space located at 219 Stearns Wharf, Suite C.
- Council approved the Waterfront Director to execute an amendment to Lease Agreement No. 22,237 with West Marine Products, Inc. located at 132-C Harbor Way, adding a ten-year term with two five-year options.

SMOKING ORDINANCES

On October 4, Council directed staff to work with the Ordinance Committee to prepare amendments to the smoking ordinance to expand areas where smoking is prohibited under Municipal Code 9.21 "Smoking Prohibited in Certain Public Areas" and Section 9.21 "Regulation of Tobacco Retailers." This will be a multi-department effort involving the Waterfront, Airport, Library, Parks and Recreation, Police and Fire Departments.

The City's smoking ordinances have not been updated since 2002. Currently, the City's

smoking ordinances are not consistent with State laws that now include more areas where smoking is prohibited and address electronic smoking devices ("vaping") and the use of medical marijuana in public.

The American Lung Association releases grades each year on leadership in adopting policies to protect and improve community health; Santa Barbara received a "D" grade in this annual review.

As mentioned previously, staff has also been directed by Council to look into regulation of tobacco retailers. Currently there are 119 licensed tobacco retailers in the City. The annual cost of the tobacco retail license is \$30 per store.

Staff will be looking into tobacco restrictions, including but not limited to the following:

- Increasing the annual retail license fee;
- Sale of tobacco at pharmacies where health products are sold;
- Sale of flavored tobacco products and other tobacco marketing methods that might entice underage smoking;
- Location of tobacco retailers within a designated space from schools, youth centers and parks; and
- Prohibiting smoking on Stearns Wharf and other wooden piers within the harbor.

See the Attachment for more details.

TENTATIVE AGENDA ITEMS FOR THE NOVEMBER MEETING

- Six-Year Capital Improvement Plan
- Lease with Santa Barbara Fish Market Retail Store

Attachment: Public Health Department Report and Definitions

Table of Tobacco Control Ordinances in Santa Barbara County—September 2016

The table shows local laws restricting smoking/tobacco or electronic smoking device (ESD) use, sales or circumstances.

Legend: X = strong prohibition X = restriction has exceptions ~ = Only at Housing Authorities Exceptions are detailed on next page.

Jurisdiction	Effective Date	Products Restricted	Secondhand Smoke and/or Electronic Smoking Device (ESD) Emissions <i>Outdoor Areas Only</i>										Sales & Distribution of Tobacco/ESD Products			Other		Grades ALA Report Card
			Dining Areas	Entryways (20 ft. or more)	Public Events	Recreation Areas	Service Areas	Sidewalks	Worksites	Multi-Unit Housing	Self-Service Display	Tobacco/ESD Shops	Tobacco Retail License	Smoke Drift	Nuisance			
Carpinteria	2011	Tobacco	X	X	X	X	X	X	X	X	~	X	X	X	X	X	X	B
Santa Barbara City	2002	Smoking	X				X				~							D
Goleta	2014	Tobacco/ESD	X	X		X	X	X	X	X		X	X	X	X	X	X	C
Santa Barbara County (Unincorporated Areas)	2015	Tobacco/ESD	X	X	X	X	X	X	X	X	~	X	X	X	X	X	X	B
Buellton	2012	Tobacco/ESD	X	X		X	X	X	X	X								D
Solvang	2014																	F
Lompoc	2014	Tobacco/ESD				X												F
Santa Maria	2014	Smoking/ESD		X		X												F
Guadalupe																		F

Federal & state laws apply in all jurisdictions and as of June 6, 2016, these laws restrict or regulate all tobacco products, including electronic smoking devices (ESD). Laws can be referenced at <https://www.cdph.ca.gov/programs/tobacco> & <http://sbcpd.org/tobacco> or contact (805)-681-5407 or phdtobacco@sbcpd.org.

Definitions

Dining Areas—defined as outdoor seating at restaurants, restaurant/bar combinations, stand-alone bars, etc.

- × **SB City:** Exempts bars; allows smoking at 25% of outdoor seating at restaurants & after 10 PM
 - × **Goleta:** Exempts bars; allows tobacco and ESD use at 25% of outdoor seating at restaurants & after 10 PM
 - × **SB County:** Except at bars, unless there is smoke or ESD emission drift to adjacent businesses and residences
 - × **Buellton:** Exempts bars; allows smoking at 25% of outdoor seating at restaurants
- Entryways**—defined as within a certain distance of doors, windows, & openings into enclosed areas.
- × **SB City:** Employees may not smoke within a “reasonable distance” of doors/windows
 - × **Goleta & Buellton:** No smoking, tobacco, or ESD use or ashtrays within 20 feet of places of employment and specific public places
 - × **Santa Maria:** No smoking, tobacco or ESD use within 20 feet of public places & City parking areas, except by conditional use permit

Recreation Areas—defined as parks, beaches, trails, sports fields, etc.

- × **SB County & Goleta:** Smoking, tobacco, and ESD use is prohibited, except at camping parks (*Lake Cachuma and Jalama Beach*) and within 30 feet of ranger’s residences at these camping parks
- × **Buellton:** Smoking, tobacco, and ESD use prohibited at parks
- × **Lompoc:** Smoking, tobacco, and ESD use is prohibited, but the City Administrator can allow smoking in designated areas for events
- × **Santa Maria:** Smoking, tobacco and ESD use prohibitions at recreations areas and plazas.

Service Areas—defined as bus stops, transit centers, ATM, or retail lines, etc. *SB City law does not apply to free-standing benches.*

Public Events—defined as farmer’s markets, fairs, parades, festivals, etc.

Worksites—defined as outdoor working area, such as construction sites, etc.

Multi-Unit Housing—defined as shared air space in residential settings, like apartments or condos, etc. Smoke drift can be from inside neighboring units or adjoining balconies and/or from outdoor common areas, like pools or playgrounds, etc.

- ~ **SB City Housing Authority:** Smoking prohibited in publicly owned/operated housing, inside and out, except in designated areas & at a few exempted properties. Some of the exempted sites have opted to go smoke-free voluntarily. Vaporizing products are not regulated.
- ~ **SB County Housing Authority:** Smoking prohibited in publicly owned/operated units, but existing smokers are “grandfathered” in.
 - Private Housing: Numerous private properties have instituted smoke-free requirements, local examples are available.

Tobacco Retail License (TRL)—a local permit issued to a business owner that retails tobacco products. Local governments set fees for this permit and the conditions for its annual renewal, along with penalties for violating local or state tobacco-related laws. These can also be used to limit location of sites (i.e., ban near schools, youth centers, etc.), further define tobacco use inside, etc.

- × **SB City:** The TRL ordinance does not meet the criteria for an effective TRL. Its main shortfall is that the \$30 annual fee does not cover the cost of administering and enforcing it, thus it is not enforced. It does not regulate “vape” shops as written. *Note:* Other local TRL fees range from \$379 to \$543 per year, with TRL programming handled for \$379 per retailer by County Public Health Department.

Sources: [Comprehensive Outdoor Secondhand Smoke Ordinances](#), American Lung Association’s Center for Tobacco Policy & Organizing, June 2016
[Matrix of Strong Local Smokefree Multi-Unit Housing Ordinances](#), American Lung Association’s Center for Tobacco Policy & Organizing, June, 2015