

# AGENDA

## CITY OF EL SEGUNDO

### ENVIRONMENTAL COMMITTEE

DUE TO THE COVID -19 EMERGENCY, THIS MEETING WILL BE CONDUCTED PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER N-29-20.

REGULAR MEETING OF THE  
EL SEGUNDO ENVIRONMENTAL COMMITTEE  
FRIDAY, November 13, 2020 – 12:00 P.M.

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#### How Can Members of the Public Observe and Provide Public Comments?

Join via Zoom from a PC, Mac, iPad, iPhone, or Android device, or by phone.

Please use this URL

<https://zoom.us/j/92637288023?pwd=dSticGIPbGVkc2NUb0taNmhMN0lxQT09>

If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous.

OR

Join by phone: 1-669-900-9128

Enter Meeting ID: 926 3728 8023

Enter Passcode: 832801

Your phone number is captured by the zoom software and is subject to the Public Records Act unless you first dial "67" before dialing the number as shown above to remain anonymous.

*The time limit for comments is five (5) minutes per person. Before speaking to the Committee, please state: your name and residence or the organization you represent. Please respect the time limits.*

Members of the Public may also provide comments electronically by sending an email to the following address, with a limit of 150 words and accepted up until 30 minutes prior to the meeting: [esassoon@elsegundo.org](mailto:esassoon@elsegundo.org) in the subject line please state the meeting date and item number. Depending on the volume of communications, the emails will be read to the Committee during public communications.

**NOTE:** Emails and documents submitted will be considered public documents and are subject to disclosure under the Public Records Act. and possibly posted to the City's website.

**NOTE:** Public Meetings can be recorded and are subject to disclosure under the Public Records Act and possibly posted to the City's website.

#### **Additional Information:**

The Environmental Committee, with certain statutory exceptions, can only take action upon properly posted and listed agenda items. Unless otherwise noted in the Agenda, the public can only comment on City-related business that is within the subject matter jurisdiction of the Diversity, Equity, and Inclusion Committee.

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In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the Elias Sassoon (310) 524-2356. Notification 24 hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

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**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PUBLIC COMMUNICATIONS – (Related to City Business Only and for which the Committee is responsible – 5 minute limit per person, 30 minute limit total) *While all comments are welcome, the Brown Act does not allow the Environmental Committee to take action on any item not on the agenda. Environmental Committee members may respond to comments after Public Communications is closed.***

**4. REPORTS: PUBLIC WORKS – *this portion of the agenda is for City staff to provide brief reports to the Committee. These are “receive and file,” non-action items only. Any actions needed to be taken must be included on an upcoming agenda.***

- a. Public Works to give update on Bee Keeping progress.
- b. Public Works to give update on Green Building progress.

**5. ACTION ITEMS:**

- a. Recommend Council to vote for City to develop citywide smoking ban. Options include: ban on smoking in public spaces, ban on smoking in common areas of multi-unit housing, and ban on tobacco sales. Attached are sample City ordinances for consideration.

**6. REPORTS: ENVIRONMENTAL COMMITTEE MEMBERS – *this portion of the agenda is for members to discuss various ideas and for subcommittees established by the Committee to provide brief reports on the work being done by the subcommittee. These are “receive and file,” non-action items only. Any actions needed to be taken must be included on an upcoming agenda.***

- a. Solid Waste Reduction/Elimination of Single-Use Plastics (Caroline Hawks/Tracey Miller-Zarneke): discuss next steps for consideration.
- b. Green Business Recognition Program (Corrie Zupo): provide update regarding the discussion with Chamber of Commerce and next steps.
- c. Water Conservation (Rachel McPherson): discuss research progress.
- d. Green Construction Standards (Corrie Zupo/Sarah Brockhaus): present/discuss findings with Planning & Building Manager.
- e. Smoking Ban (Kevin Maggay): discuss research in progress (attached).
- f. Discuss a City Council recommendation to create a community garden downtown as part of the Civic Center Redevelop and Re-Purposing (or at an alternative location).

- g. Discuss upcoming Recycled Water, Water and Wastewater operational cost (91% increase from FY 2017 to FY 2021 and policy suggestions to address these operation cost increases.

**7. CONSENT AGENDA:**

- a. Approval of October 2, 2020 Committee Meeting Minutes. Recommendation: Approval.

**ADJOURNMENT**

Posted By: Mona Shilling

Date: 11/09/2020

Time: 3pm

## CHAPTER 6

### SMOKING REGULATED OR PROHIBITED

#### ARTICLE B: TOBACCO RETAILER LICENSE

##### SECTION:

##### **5-6B-1: General Provisions**

##### **5-6B-1-1: Purpose**

##### **5-6B-1-2: Definitions**

##### **5-6B-1-3: Prohibitions**

##### **5-6B-1-4: Administration By Department**

##### **5-6B-1-5: Notices**

##### **5-6B-2: License Application And Issuance**

##### **5-6B-2-1: Form And Content Of Application**

##### **5-6B-2-2: License Issuance**

##### **5-6B-2-3: License Denial**

##### **5-6B-3: Conditions**

##### **5-6B-3-1: General Conditions**

##### **5-6B-3-2: Display Of License**

##### **5-6B-3-3: License Renewal**

##### **5-6B-3-4: No Additional Privileges Granted**

##### **5-6B-3-5: Licenses Nontransferable**

##### **5-6B-4: Violation And Enforcement**

##### **5-6B-4-1: Enforcement**

##### **5-6B-4-2: City Attorney Enforcement Authority**

##### **5-6B-4-3: Notice Of Violation**

##### **5-6B-4-4: Violations Deemed Conclusive**

##### **5-6B-4-5: Administrative Fine**

##### **5-6B-4-6: Payment Of Administrative Fines**

##### **5-6B-4-7: Delinquent Administrative Fines; Penalties And Interest**

##### **5-6B-4-8: Liability For Fines**

##### **5-6B-4-9: License Suspension And Revocation**

##### **5-6B-4-10: Suspension Time Periods**

##### **5-6B-4-11: No New License After Revocation**

##### **5-6B-5: Appeals**

##### **5-6B-5-1: Administrative Appeals**

##### **5-6B-5-2: Content Of Notices**

##### **5-6B-5-3: Right To Judicial Review**

##### **5-6B-1: GENERAL PROVISIONS:**

##### **5-6B-1-1: PURPOSE:**

This article is adopted pursuant to the city's police powers for the purpose of promoting compliance with federal, state, and local laws that regulate the sale and use of tobacco products and paraphernalia. Nothing in this article is intended to, nor does it, duplicate or conflict with applicable local, state, or federal laws.

## 5-6B-1-2: DEFINITIONS:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this article:

CHIEF: The police chief or designee.

DEPARTMENT: The El Segundo police department.

ELECTRONIC SMOKING DEVICE: Means an electronic device that can be used to deliver an inhaled dose of nicotine or other substances including any component, part, or accessory of such device whether or not sold separately. The definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. Electronic Smoking Device does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such a product is marketed and sold solely for such an approved purpose.

PERSON: Any natural person or legal entity.

PROPRIETOR: A person with an ownership or managerial interest in a business. An ownership interest is deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest is deemed to exist when a person can or does have, or can or does share, ultimate control over the day to day operations of a business.

SMOKING: Means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device or any plant product intended for human inhalation that facilitates the release of gases, particles or vapors into the air.

TOBACCO PARAPHERNALIA: Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for smoking or ingestion of tobacco products.

~~TOBACCO PRODUCT: Any substance containing tobacco leaf, including, without limitation, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.~~ Means:

1. Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and
2. Any electronic smoking device with or without nicotine;

3. Includes any component, part, or accessory of a tobacco product whether or not sold separately;
4. Does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

**TOBACCO RETAILER:** Any person that operates a store, stand, concession, or other place at which sales, or other exchanges for value, of tobacco products are made to purchasers for consumption or use.

**5-6B-1-3: PROHIBITIONS:**

- A. It is unlawful for any person to act as a tobacco retailer without a valid license issued pursuant to this article for each location at which activity is proposed to occur.
- B. It is unlawful for any person to act as a tobacco retailer from other than a fixed location within the city's jurisdiction.
- C. It is unlawful for any person to cause, permit, aid, abet, or conceal a violation of any provision of this article.

**5-6B-1-4: ADMINISTRATION BY DEPARTMENT:**

The chief and department are authorized to administer and enforce this article.

**5-6B-1-5: NOTICES:**

- A. Where the provisions of this article require that an applicant/licensee be served with notice, such notice is deemed served when personally delivered to such applicant/licensee or when deposited in the first class U.S. mail, addressed to such applicant/licensee at the applicant/licensee's last known address.
- B. Unless otherwise provided, written notification to an applicant/licensee of a license decision will state with particularity the basis for such decision.

**5-6B-2: LICENSE APPLICATION AND ISSUANCE:**

**5-6B-2-1: FORM AND CONTENT OF APPLICATION:**

- A. Permit applications must be filed by a natural person in the name of each proprietor proposing to conduct retail tobacco sales.
- B. Every application must be signed by the proprietor, or the proprietor's authorized representative, under penalty of perjury.
- C. Permit applications will be in a form prescribed by the chief and contain all of the following information:

1. The name, mailing address, and daytime and evening telephone numbers of the person filing the application;
2. The business name, address, and telephone number of the single fixed location for which a license is sought;
3. The name and mailing address authorized by each proprietor to receive all notices. If such an address is not supplied, notices will be sent to the business address;
4. Whether or not the proprietor was previously issued a license under this article that was suspended or revoked and, if so, the dates of the suspension period or revocation date; and
5. Such other information as the department deems reasonably necessary for administering or enforcing this article.

**5-6B-2-2: LICENSE ISSUANCE:**

- A. The chief must issue a license if:
1. The application was complete in accordance with this article;
  2. The applicant pays all applicable license fees;
  3. There are no grounds for denying the license; and
  4. The applicant accepts the license approval or conditional approval in writing.
- B. Use of any license issued pursuant to this article must conform to this article.

**5-6B-2-3: LICENSE DENIAL:**

A license can be denied for the following reasons:

- A. The application is incomplete;
- B. The applicant failed to provide reasonable supplemental application information requested by the chief;
- C. Information submitted by the applicant is materially false;
- D. The application is submitted by a proprietor with a suspended license or whose license was revoked; or
- E. The application seeks authorization for tobacco retailing that is prohibited by this chapter or unlawful under any other local, state, or federal law.

**5-6B-3: CONDITIONS:**

**5-6B-3-1: GENERAL CONDITIONS:**

Tobacco retailer licensees must:

- A. Comply with all local, state, and federal laws regulating tobacco products and tobacco paraphernalia including, without limitation, this code;
- B. Maintain a valid business license issued pursuant to this code;
- C. Allow authorized enforcement officers to enter onto licensed premises to ensure compliance with this article during business hours.

**5-6B-3-2: DISPLAY OF LICENSE:**

Each license issued by this article must be prominently displayed in a publicly visible location at the licensed tobacco retailer's location.

**5-6B-3-3: LICENSE RENEWAL:**

Unless suspended or revoked, licenses issued pursuant to this article have a term of one year. Licenses must be renewed not later than thirty (30) days before they expire in order to be maintained. Should a license expire, the proprietor must comply with this article to obtain a new license.

**5-6B-3-4: NO ADDITIONAL PRIVILEGES GRANTED:**

Nothing in this article is intended to, nor does it, grant to a properly licensed tobacco retailer privileges other than permission to operate as a tobacco retailer at the location identified in the license.

**5-6B-3-5: LICENSES NONTRANSFERABLE:**

A license issued to a tobacco retailer pursuant to this article is nontransferable. Any change in business name or location requires a new license issued in accord with this article.

**5-6B-4: VIOLATION AND ENFORCEMENT:**

**5-6B-4-1: ENFORCEMENT:**

- A. In addition to the remedies set forth in this article, violations of a tobacco retailer's license may be enforced as follows:
  - 1. Prosecution as infractions or misdemeanors at the city attorney's discretion.
  - 2. Abated as a public nuisance.
  - 3. Enjoined as unfair business practices that are presumed to nominally damage each and every resident of the community in which the tobacco retailer operates.



- B. Any person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future violations or to recover actual damages.
- C. The remedies provided by this article are cumulative and in addition to any other criminal or civil remedies.

**5-6B-4-2: CITY ATTORNEY ENFORCEMENT AUTHORITY:**

In addition to any other general functions, powers, and duties given to the city attorney by this code or California law, the city attorney is authorized to:

- A. Prosecute on behalf of the people all criminal and civil cases for violations of this article including, without limitation, administrative or judicial nuisance abatement and suits for injunctive relief;
- B. Prosecute all actions for the recovery of fines, penalties, forfeitures, and other money accruing to the city under this article.

**5-6B-4-3: NOTICE OF VIOLATION:**

Upon determining that a person is violating this article, the chief must serve a notice of violation on the apparent violator. The notice must state the basis of such violations and provide information regarding appeals rights.

**5-6B-4-4: VIOLATIONS DEEMED CONCLUSIVE:**

The judgment of any court of competent jurisdiction, or the admission of a tobacco retailer licensee in any civil or criminal action against a tobacco retailer licensee, whether the city is a party or not, that the tobacco retailer has violated any tobacco related local, state, or federal law is conclusive of that fact for purposes of enforcing this article. (Ord. 1358, 4-1-2003)

**5-6B-4-5: ADMINISTRATIVE FINE:**

- A. In addition to any other enforcement remedy, the chief may fine a tobacco retailer for violating this article as follows:
  - 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation in any twelve (12) month period;
  - 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation in any twelve (12) month period; or
  - 3. A fine not exceeding five hundred dollars (\$500.00) for a third or subsequent violation in any twelve (12) month period.

**5-6B-4-6: PAYMENT OF ADMINISTRATIVE FINES:**

An administrative fine must be paid to the city within thirty (30) days from the date of the notice of violation or, if an appeal is made, within fifteen (15) days after the date of the city manager's notice of the decision to uphold the imposition of administrative fines, whichever is later.

**5-6B-4-7: DELINQUENT ADMINISTRATIVE FINES; PENALTIES AND INTEREST:**

- A. A penalty of ten percent (10%) is added on any delinquent fines on the last day of each month after the due date. The penalty will not exceed fifty percent (50%) of the fine.
- B. In addition to penalties provided by this section, delinquent fines accrue interest at the rate of one percent (1%) per month, exclusive of penalties, from the due date.

**5-6B-4-8: LIABILITY FOR FINES:**

All fines, fees, penalties, and interest imposed pursuant to this article are civil debts owed to the city by the person fined. In the event that judicial action is necessary to compel payment of any debt owed to the city, the person or persons subject to the fine are also liable for the costs of suit and attorney fees incurred by the city to collect the fine.

**5-6B-4-9: LICENSE SUSPENSION AND REVOCATION:**

In addition to any other penalty authorized by law, the chief may suspend or revoke a tobacco retailer's license for the following reasons:

- A. Upon learning or discovering facts that require license denial under this article that were not previously disclosed or reasonably discoverable; or
- B. If the licensee violates the tobacco retailer license conditions.

**5-6B-4-10: SUSPENSION TIME PERIODS:**

- A. After serving a notice of violation, the chief may suspend a tobacco retailer's license as follows:
  - 1. Upon finding a first license violation within any sixty (60) month period, a thirty (30) day suspension;
  - 2. Upon finding a second license violation within any sixty (60) month period, a ninety (90) day suspension;
  - 3. Upon finding a third license violation within any sixty (60) month period, a one year suspension;
  - 4. Upon finding a fourth license violation within any sixty (60) month period, revocation.
- B. Nothing in this section is intended to limit the chief's ability to impose a different suspension period or to revoke a license as the circumstances of a violation may require.

**5-6B-4-11: NO NEW LICENSE AFTER REVOCATION:**

Should a tobacco retailer's license be revoked, the proprietor is presumptively disqualified to apply for a new license in accordance with this article. This presumption may be overcome upon a showing of good cause as to why a license should be issued following a revocation. Any such showing must be made to the chief's satisfaction or, if the chief denies a license, to the city manager as prescribed by this article.

**5-6B-5: APPEALS:**

**5-6B-5-1: ADMINISTRATIVE APPEALS:**

An applicant is entitled to appeal the chief's decisions to the city manager provided:

- A. A request for review must be commenced within ten (10) days from the date on which written notice of the chief's decision is served on the applicant/licensee. If request is untimely, the city manager may, nevertheless, extend the time for commencing such review for good cause shown.
- B. A request for appeal must be on a form provided by the department and contain the following information:
  - 1. The name, address and telephone number of the person making the request;
  - 2. A description of the decision, determination or order which is the subject of the review, and the date such decision, determination or order was made or issued;
  - 3. A brief description of all grounds for making the request; and
  - 4. Such other information as may be required by the department.
- C. Upon receiving an appeal, the city manager will review the request and, within ten (10) days of receiving the appeal, provide the appellant with a written notification that:
  - 1. The chief's decision is affirmed;
  - 2. The chief's decision is modified;
  - 3. The chief's decision is reversed and a license is issued.
- D. The city manager may, but is not required to, conduct a hearing at a time, place, and manner determined in the city manager's sole discretion. Should a hearing occur, the city manager may issue a decision orally at the conclusion of the hearing, but also notify the applicant and the chief in writing of the city manager's decision.
- E. The city manager's decision is a final determination. There is no right of city council appeal.

**5-6B-5-2: CONTENT OF NOTICES:**

Any notification of action, whether oral or written, must describe with particularity the facts and the reasons for the decision.

**5-6B-5-3: RIGHT TO JUDICIAL REVIEW:**

- A. An applicant/licensee may appeal the city manager's decision by filing an appeal with the superior court pursuant to Government Code section 53069.4, or any successor statute, within twenty (20) days from service of the city manager's decision.
- B. Should a licensee file a timely appeal with the superior court, any requirement to pay an administrative fine is suspended and the payment of the fine, if any, will be in accordance with the superior court decision.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF EL SEGUNDO REGULATING  
SMOKING IN MULTI-UNIT HOUSING AND ADDING CHAPTER 6 ARTICLE  
C (REGULATION OF SMOKING IN MULTI-UNIT HOUSING) TO TITLE 5  
(HEALTH AND SANITATION) OF THE EL SEGUNDO MUNICIPAL CODE

THE EL SEGUNDO CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council hereby finds, determines and declares that:

- A. Tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and
- B. More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and
- C. The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and
- D. The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and
- E. Secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and
- F. 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure; and
- G. Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and
- H. Secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and
- I. Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States; and
- J. 89% of Californians are non-smokers; and
- K. There is no Constitutional right to smoke; and
- L. According to the National Fire Protection Association, smoking is the primary cause of fire-related injuries and deaths in the home; and

- M. According to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke through doorways, cracks in walls, electrical lines, plumbing and ventilations systems; and
- N. The Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure; and
- O. It is the intent of the City Council of the City of El Segundo to provide for the public's health, safety, and welfare by discouraging the inherently dangerous activity of tobacco use around non-consenting individuals, protecting children from exposure to smoking where they live and play and protecting the public from nonconsensual exposure to secondhand smoke in and around their homes.

SECTION 2. Title 5 (Health and Sanitation) is hereby amended to add a new Chapter 6 Article C, Regulation of Smoking in Multi-Unit Housing, as follows:

**"Chapter 6 Article C  
REGULATION OF SMOKING IN MULTI-UNIT HOUSING**

- 5-6C-1 Purpose
- 5-6C-2 Definitions
- 5-6C-3 Smoking Prohibited by Law in Certain Areas
- 5-6C-4 Required and Implied Lease Terms for All Units in Rental Complexes
- 5-6C-5 Required Terms to be Included in Rules and Regulations for All Units In Common Interest Complexes
- 5-6C-6 Remedies Not Exclusive
- 5-6C-7 Penalties and Enforcement
- 5-6C-8 Private Enforcement
- 5-6C-9 Conflict of Provisions

**5-6C-1 - Purpose.**

It is the intent of the City Council of the City of El Segundo, in enacting this Chapter, to provide for the public's health, safety, and welfare by discouraging the inherently dangerous activity of tobacco use around non-consenting individuals, protecting children from exposure to smoking where they live and play and protecting the public from nonconsensual exposure to second-hand smoke in and around their homes.

**5-6C-2 - Definitions.**

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMMON AREA:** Shall mean every area of a Multi-Unit Residence that residents of more than one Unit of that Multi-Unit Residence are entitled to enter or use, including, for example, halls

and paths, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.

**COMMON INTEREST COMPLEX:** Shall mean a Multi-Unit Residence that is a condominium project, a community apartment project, a stock cooperative, or a planned development as defined by California Civil Code Section 4100.

**HOA:** Shall mean an organization or entity established for the purpose of managing and/or maintaining a Common Interest Complex.

**LANDLORD:** Shall mean any person who owns property let for residential use, any person who lets residential property, and any person who manages such property, except that Landlord does not include a master tenant who sublets a Unit as long as the master tenant sublets only a single Unit of a Multi-Unit Residence.

**MULTI-UNIT RESIDENCE:** Shall mean residential property containing three or more Units and shall include a Rental Complex and a Common Interest Complex. The following types of housing are specifically excluded from this definition:

1. A hotel or motel;
2. A mobile home park;
3. A single-family home; and
4. A single-family home with a detached or attached accessory dwelling unit when permitted pursuant to Section xx-xx-xx of this Code.

**RENTAL COMPLEX:** Shall mean a Multi-Unit Residence for which 50 percent or more of Units are let by or on behalf of the same Landlord.

**SMOKE:** Shall have the meaning ascribed in Section 5-6C-2 of this Code, except that Smoke does not include marijuana smoke when the person smoking marijuana holds a valid current "identification card", as that term is defined in Section xx-xx-xx of this Code.

**SMOKING:** Shall have the meaning ascribed in Section 5-6C-2 of this Code.

**UNIT:** Shall mean a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use area, such as, for example, a private balcony, porch, deck, or patio. "Unit" includes, without limitation, an apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living facility, hospital and a room in a homeless shelter.

### **5-6C-3 - Smoking Prohibited by Law in Multi-Unit Residences.**

- A. As of MM/DD/YYYY, Smoking in a Multi-Unit Residence, including but not limited to all Units and Common Areas, is prohibited and a violation of this Chapter.

- B. As of MM/DD/YYYY, No Person with legal control over a Common Area in which Smoking is prohibited by this Chapter or other law shall knowingly permit the presence of ash trays, ash cans, or other receptacles designed for or primarily used for disposal of Smoking waste within the area.
- C. As of MM/DD/YYYY, Clear and unambiguous "No Smoking" signs shall be posted in sufficient numbers and locations in each Multi-Unit Residence to make it obvious to a reasonable person that Smoking is prohibited by this Chapter throughout the Multi-Unit Residence. The signs shall have letters of no less than one inch in height or contain the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar). Such signs shall be maintained by the Person or Persons with legal control over the Multi-Unit Residence. The absence of signs shall not be a defense to a violation of any provision of this Chapter.

**5-6C-4 - Required Lease Terms for All Units in Rental Complexes.**

- A. Prior to the effective date of a new lease, or of an amendment that extends the term, a Landlord shall provide each tenant and prospective tenant in a Rental Complex with:
  - 1. A written notice clearly stating that as of MM/DD/YYYY, Smoking is prohibited in the rental complex, including but not limited to within the Unit and all Common Areas; and
  - 2. A copy of this Chapter.
- B. Every lease or other rental agreement for the occupancy of a Unit in a Rental Complex entered into, renewed, or continued month-to-month after MM/DD/YYYY, shall include, or be amended to include, the following provisions:
  - 1. A clause providing that as of MM/DD/YYYY, or an earlier date if the Landlord so determines, it is a material breach of the lease or other rental agreement to allow or engage in Smoking in the Unit. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in the unit."
  - 2. A clause providing that it is a material breach of the lease or other rental agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in Smoking in any Common Area of the property. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in any common area of the property."
  - 3. A clause providing that it is a material breach of the lease or other rental agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to violate any law regulating Smoking while anywhere on the property. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person



subject to the control of the tenant or present by invitation or permission of the tenant to violate any law regulating smoking while anywhere on the property."

- C. This Chapter shall not create additional liability in a Landlord to any person for a tenant's breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a Rental Complex if the Landlord has fully complied with this Section and subsections Band C of Section 5-6C-3.
- D. Failure to enforce any Smoking provision required by this Chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

**5-6C-5 - Required Terms to be included in Rules and Regulations for All Units in Common Interest Complexes.**

- A. At least six months before MM/DD/YYYY, the HOA board of a common interest complex shall provide each homeowner with the following:
  - 1. A written notice clearly stating that the Smoking is prohibited in the common interest complex, including but not limited to all Units and Common Areas; and
  - 2. A copy of this Chapter.
- B. All rules and regulations for a Common Interest Complex shall include the provisions set forth in Section 5-6C-5.C below on the earliest possible date such rules and regulations may be amended in accordance with applicable law, including providing the minimum legal notice.
- C. All rules and regulations for a Common Interest Complex shall include, or be amended to include, the following provisions:
  - 1. A clause providing that as of MM/DD/YYYY, or an earlier date if the HOA board so determines, it is a violation of the rules and regulations to allow or engage in Smoking in a Unit. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to engage in smoking in the unit as of MM/DD/YYYY (or an earlier date if the HOA board so determines)."
  - 2. A clause providing that it is a violation of the rules and regulations for the homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to engage in Smoking in any Common Area of the property. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to engage in smoking in any common area of the property."

3. A clause providing that it is a violation of the rules and regulations for homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to violate any law regulating Smoking while anywhere on the property. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to violate any law regulating smoking while anywhere on the property."

- D. This Chapter shall not create additional liability in an HOA board to any person for a homeowner's violation of any Smoking provision in the rules and regulations for a Common Interest Complex if the HOA board has fully complied with this Section and subsections 8 and C of Section 5-6C-3.
- E. Failure to enforce any Smoking provision required by this Chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

**5-6C-6 - Remedies not Exclusive.**

The provisions of this Chapter are restrictive only and establish no new rights for a person who engages in Smoking. Notwithstanding (1) any provision of this Chapter or other provisions of this Code, (2) any failure by any person to restrict Smoking under this Chapter, or (3) any explicit or implicit provision of this Code that allows Smoking in any place, nothing in this Code shall be interpreted to limit any person's legal rights under other laws with regard to Smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.

**5-6C-7 - Penalties and Enforcement.**

For a violation of this Chapter 5-6C, the following provisions shall apply:

- A. Except as otherwise provided in Section 5-6C-7.8 below, a violation of this Chapter is not a misdemeanor or an infraction. The enforcement of this Chapter shall be by the private parties involved.
- B. In the discretion of the City Prosecutor, a violation of Sections 5-6C-3.B, 5-6C-3.C, 5-6C-4.A, 5-6C-4.B, 5-6C-5.A and 5-6C-5.B of this Chapter may be prosecuted as an infraction or misdemeanor. The penalties for a violation of the aforementioned Sections shall be consistent with the penalties set forth in Section xx-xx-xx of this Code, but in no event shall such penalties exceed the maximum penalties permitted under State law.
- C. The remedies provided by this Section 5-6C-7 and in Section 5-6C-8 are cumulative and in addition to any other remedies available at law or in equity.
- D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall also constitute a violation of this Chapter.
- E. Any violation of this Chapter is hereby declared to be a public nuisance.

- F. No person shall intimidate, harass, or otherwise retaliate against any person who seeks compliance with this Chapter. Moreover, no person shall intentionally or recklessly expose another person to Smoke in response to that person's effort to achieve compliance with this Chapter.
- G. Any person acting for the interests of itself, its members, or the general public may bring a civil action to enforce this Chapter in accordance with the provisions in Section 5-6C-8.

**5-6C-8 - Private Enforcement.**

- A. Pursuant to California Civil Code Section 3501 et seq, any person injured by a violation of this Chapter may bring a civil action to enforce this Chapter by way of a conditional judgment or an injunction. Upon proof of a violation, a court shall issue a conditional judgment or an injunction.
- B. Notwithstanding any legal or equitable bar against a person seeking relief on its own behalf, a person may bring an action to enforce this Chapter solely on behalf of the general public. When a person brings an action solely on behalf of the general public, nothing about such an action shall act to preclude or bar the person from bringing a subsequent action based upon the same facts but seeking relief on his, her or its own behalf.
- C. Nothing in this Chapter prohibits a person from bringing a civil action in small claims court to enforce this Chapter, so long as the amount in demand and the type of relief sought are within the jurisdictional requirements of that court.

**5-6C-9 - Conflict of Provisions.**

In the event of any conflict between this Chapter and any other provision of this Code, this Chapter shall control."

SECTION 3. The introductory sentence of subsection B of Section 5-6-3 of Chapter 6 of Title 5 is hereby revised as follows:

"Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code."

SECTION 4. The City Council hereby directs that, 12 months after full implementation of the Ordinance, the City Manager, or designees, shall review the effectiveness of the private and limited City enforcement of this Ordinance and provide an informational memorandum to the City Council regarding the City Manager's findings.

SECTION 5. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that anyone or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 6. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 7. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage. .

PASSED, APPROVED AND ADOPTED \_\_\_\_ day of \_\_\_\_\_, 2020.

## CHAPTER 6

### SMOKING REGULATED OR PROHIBITED

#### SECTION:

#### 5-6-1: Purpose And Findings

#### 5-6-2: Definitions

#### 5-6-3: Smoking Prohibited

#### 5-6-4: ~~Smoking Regulated In Certain Places~~ Allowing, Aiding or Abetting Illegal Smoking

#### 5-6-5: ~~Exemptions~~ Non-retaliation

#### 5-6-6: ~~Non-retaliation~~ Violations

#### 5-6-7: ~~Posting Of Signs~~

#### 5-6-8: ~~Violations~~

#### 5-6-1: PURPOSE AND FINDINGS:

The City Council hereby finds that the smoking of tobacco, or any other weed or plant, or electronic cigarette is a danger to health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces or public open spaces, 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 weed or plant, or electronic cigarette in public places and places of employment as stated and required in this Chapter.

#### 5-6-2: DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall when used in this Chapter have the meanings respectively ascribed to them by this Section:

**BAR:** An establishment which is devoted to serving of alcoholic beverages and which does not serve meals.

**EMPLOYEE:** Any person who is employed by any employer in consideration for monetary compensation or profit.

**EMPLOYER:** Any person, partnership, corporation, including municipal corporation, who employs the services of one or more ~~than five (5) persons~~ Employees.

**ENCLOSED:** Closed in by a roof and walls with appropriate openings for ingress and egress ~~and is not intended to mean areas commonly described as public lobbies.~~

**PLACE OF EMPLOYMENT OR WORK PLACE:** ~~Any enclosed area of a structure or portion thereof 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.~~ Means any area under the legal or de facto control of an Employer that an Employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and

banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

**PUBLIC PLACE:** ~~Any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to: banks, educational facilities, health facilities, public transportation facilities, reception areas, lobbies, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, waiting rooms, offices, auditoriums, classrooms, conference and meeting rooms.~~ Means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public. A private residence is not a public place.

**SMOKE OR SMOKING:** ~~Includes the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.~~ Means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term Smoke includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

**SMOKING:** Means engaging in an act that generates Smoke, such as, for example: possessing a lighted pipe or a lighted hookah pipe; operating an electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

### **5-6-3: SMOKING PROHIBITED:**

~~It shall be unlawful to smoke in the following places:~~

A. Except as otherwise provided by this chapter or by state or federal law, Smoking is prohibited in the following locations:

~~A. 1.~~ Any City-owned or City-operated vehicle;

~~B. 2.~~ Any pPublic pPlace, or in any similar enclosed area in City-owned or private buildings generally used by and open to the public, including, but not limited to, elevators and public restrooms.

3. Places of Employment, including those regulated by California Labor Code Section 6404.5;

4. Any area within 20 feet of any door, window, opening, or vent, into a Public Place, except for such areas on private residential property.

B. Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law:

1. Private residential property, other than those used as a child-care or health-care facility subject to State licensing requirements.
  2. In up to twenty percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least 80 percent of its guest rooms as nonsmoking rooms, appropriately signs non-smoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from non-smoking rooms on separate floors, wings, or portions of either; smoking and non-smoking rooms shall not be interspersed. Nothing in this ordinance shall require a hotel or motel to provide Smoking rooms and the owner or operator of a hotel or motel may choose to prohibit Smoking throughout the property.
  3. Within a moving vehicle.
- C. No person shall dispose of any Smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which Smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for Smoking waste.

**5-6-4: SMOKING REGULATED IN CERTAIN PLACES** Allowing, Aiding or Abetting Illegal Smoking:

- A. No person shall knowingly permit Smoking in an area under his, her, or its legal or de facto control where Smoking is prohibited by this chapter or other law.
- B. The person who has legal or de facto control of any Public Place or Place of Employment shall post a "No Smoking" or "Smoke Free" sign, with letters of no less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), at the primary entrance to each Public Place or Place of Employment in which Smoking is prohibited by this chapter. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

~~—A.— Places Of Employment:~~

~~—1.— Smoke-Free Areas: It shall be the responsibility of employers to provide smoke-free areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.~~

~~—2.— Implement Smoking Policy: Within ninety (90) days of the effective date hereof, each employer shall adopt, implement and maintain a written and posted smoking policy which shall contain at a minimum, provisions related to the following:~~

~~— a.— Provision and maintenance of a contiguous no-smoking area of not less than one-half (1/2) of the seating capacity and floor space in employee lounges, cafeterias, and lunchrooms with a seating capacity of ten (10) or more. Employee lounges, cafeterias and lunchrooms with a seating capacity of less than ten (10) would be designated as nonsmoking.~~

~~— b. Any employee in an office or similar workplace of more than five (5) employees shall be given the right to designate his or her individual and immediate work area as a nonsmoking area and to post it with appropriate sign(s).~~

~~— c. Smoking shall be prohibited in all common workplaces in a place of employment, unless every person who works in that workplace is a smoker.~~

~~— 3. Precedence Of Nonsmoker: In any dispute arising under the smoking policy, the rights of the nonsmoker shall be given precedence.~~

~~— 4. Exceptions: This subsection is not intended to regulate smoking in the following places and under the following conditions:~~

~~— a. A private home which may serve as an office workplace.~~

~~— b. Any property owned or operated by other governmental agencies.~~

~~— 5. Compliance Of Employer: An employer who makes reasonable efforts to develop and promulgate a policy regarding smoking and nonsmoking in the workplace shall be deemed to be in compliance with subsection A2 of this Section; provided, that a policy which designates an entire workplace as a smoking area shall not be deemed in compliance with this subsection.~~

~~— 6. Nonsmoking Area Designation: Notwithstanding the above, every employer shall have the authority to designate any work area as a nonsmoking area.~~

~~— 7. Time Limit: The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.~~

~~— 8. Supply Copy Of Policy To Employees: All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.~~

~~— B. Eating Establishments: Every publicly or privately owned coffee shop, cafeteria, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food and/or any alcoholic beverage to the general public whose occupied capacity is more than forty (40) persons shall provide and maintain a nonsmoking area of at least fifty percent (50%) of the seating capacity. Every publicly or privately owned coffee shop, cafeteria, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food and/or any alcoholic beverage to the general public whose occupied capacity is less than forty (40) persons shall post a sign in a prominent place near the entrance of such establishment stating either that the establishment allows smoking or prohibits smoking. Excluded from the calculation of occupied capacity herein shall be those portions of such establishments which are located outdoors.~~

#### 5-6-5: EXEMPTIONS:

The following establishments are hereby exempted from smoking restrictions under this Chapter:

— A. Bars;



- ~~—B. Banquet rooms used for private functions;~~
- ~~—C. Buildings owned or leased by County, State, and Federal Government agencies;~~
- ~~—D. Private homes which serve as offices.~~

#### **5-6-65: NON-RETALIATION:**

No person or employer shall discharge, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

#### ~~5-6-7: POSTING OF SIGNS:~~

~~Whenever in this Code smoking is prohibited, conspicuous signs shall be posted so stating with letters of not less than one inch (1") in height on a contrasting background, or an international "no smoking" symbol, a red circle with a diagonal bar across it, shall be clearly and conspicuously posted. It shall be the duty of the owner, operator, manager, or other persons having control of such room, building, or other place where smoking is prohibited, to post such signs or to cause such signs to be posted.~~

#### **5-6-86: VIOLATIONS:**

Violation of any provision of this Chapter shall be an infraction, punishable as provided in this Code by: a) a fine not exceeding fifty dollars (\$50.00) for a first violation; b) a fine not exceeding one hundred dollars (\$100.00) for a second violation of the same Section of this Chapter within one year; c) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of the same Section of this Chapter or ordinance within one year.

**ORDINANCE NO. ~~1140~~ XXXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, ~~ADDING A NEW~~ AMENDING CHAPTER 6.24 ~~TO~~ OF TITLE 6 OF THE EL SEGUNDO MUNICIPAL CODE REGULATING SMOKING IN PUBLIC AREAS AND WORK PLACES.

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 6.24 is hereby ~~added to~~ amended under Title 6 of the El Segundo Municipal Code to read as follows:

**Title 6**

**HEALTH AND SANITATION**

**Chapter 6.24**

**SMOKING REGULATED OR PROHIBITED**

**Sections:**

- 6.24.010 **Purpose and Findings**
- 6.24.020 **Definitions**
- 6.24.030 **Smoking Prohibited**
- 6.24.040 ~~Regulation of smoking in places of employment~~ Allowing, Aiding or Abetting Illegal Smoking
- ~~6.24.050 — Regulation of smoking in eating establishment~~
- ~~6.24.060 — Exemptions~~
- ~~6.24.070 — Posting of signs~~
- 6.24.08~~5~~0 **Violations**
- 6.24.09~~6~~0 **Non-retaliation**

6.24.010 **PURPOSE AND FINDINGS.** The city Council hereby finds that the smoking of tobacco, or any other weed or plant, or electronic cigarette is a danger to health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces or public open spaces, and in order to serve public health, safety and welfare, the declared purpose of this Chapter 6.24 is to prohibit the smoking of tobacco, or any weed or plant, or electronic cigarette in public places and places of employment as stated and required in this Chapter 6.24.

6.24.020 **DEFINITIONS.** For the purposes of this Chapter the following words and phrases shall when used in this Chapter have the meaning respectively ascribed to them by this section:

- (a) Bar shall mean an establishment which is devoted to serving of alcoholic beverages and which does not serve meals.

- (b) Employee shall mean any person who is employed by any employer in consideration for monetary compensation or profit.
- (c) Employer shall mean any person, partnership, corporation, including municipal corporation, who employs the services of one or more ~~than five persons~~ Employees.
- (d) Enclosed shall mean closed in by a roof and walls with appropriate openings for ingress and egress ~~and is not intended to mean areas commonly described as public lobbies~~.
- (e) ~~Place of employment or work place shall mean any enclosed area of a structure or portion thereof 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.~~ Place of Employment means any area under the legal or de facto control of an Employer that an Employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.
- (f) ~~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: banks, educational facilities, health facilities, public transportation facilities, reception areas, lobbies, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, waiting rooms, offices, auditoriums, classrooms, conference and meeting rooms.~~ Public Place means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public. A private residence is not a public place.
- (g) ~~Smoke or Smoking shall include the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.~~ Smoke means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term Smoke includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.
- (h) Smoking means engaging in an act that generates Smoke, such as, for example: possessing a lighted pipe or a lighted hookah pipe; operating an electronic

cigarette, a lighted cigar, or a lighted cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

6.24.030 **SMOKING PROHIBITED.** ~~It shall be unlawful to smoke in the following~~  
places:

A. Except as otherwise provided by this chapter or by state or federal law, Smoking is prohibited in the following locations:

- (a) Any city-owned or city-operated vehicle;
- (b) Any ~~p~~Public ~~p~~Place, or in any similar ~~enclosed~~ area in city owned or private buildings generally used by and open to the public, including, but not limited to, elevators and public restrooms;
- (c) Places of Employment, including those regulated by California Labor Code Section 6404.5;
- (d) Any area within 20 feet of any door, window, opening, or vent, into a Public Place, except for such areas on private residential property.

B. Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law:

1. Private residential property, other than those used as a child-care or health-care facility subject to State licensing requirements.
2. In up to twenty percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least 80 percent of its guest rooms as nonsmoking rooms, appropriately signs non-smoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from non-smoking rooms on separate floors, wings, or portions of either; smoking and non-smoking rooms shall not be interspersed. Nothing in this ordinance shall require a hotel or motel to provide Smoking rooms and the owner or operator of a hotel or motel may choose to prohibit Smoking throughout the property.
3. Within a moving vehicle.

C. No person shall dispose of any Smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which Smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for Smoking waste.

~~6.24.040 — REGULATION OF SMOKING IN PLACES OF EMPLOYMENT.~~

~~A. It shall be the responsibility of employers to provide smoke-free areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.~~

- B. ~~Within 90 days of the effective date of this ordinance, each employer shall adopt, implement and maintain a written and posted smoking policy which shall contain at a minimum, provisions related to the following:~~
- ~~(a) Provision and maintenance of a contiguous no smoking area of not less than one-half of the seating capacity and floor space in employee lounges, cafeterias, and lunchrooms with a seating capacity of ten (10) or more. Employee lounges, cafeterias and lunchrooms with a seating capacity of less than ten (10) would be designated as nonsmoking.~~
  - ~~(b) Any employee in an office or similar workplace of more than five (5) employees shall be given the right to designate his or her individual and immediate work area as a nonsmoking area and to post it with appropriate sign(s).~~
  - ~~(c) Smoking shall be prohibited in all common workplaces in a place of employment, unless every person who works in that workplace is a smoker.~~
- C. ~~In any dispute arising under the smoking policy, the rights of the nonsmoker shall be given precedence.~~
- D. ~~This section is not intended to regulate smoking in the following places and under the following conditions:~~
- ~~(a) A private home which may serve as an office workplace.~~
  - ~~(b) Any property owned or operated by other governmental agencies.~~
- E. ~~An employer who makes reasonable efforts to develop and promulgate a policy regarding smoking and nonsmoking in the work place shall be deemed to be in compliance with paragraph B above, provided that a policy which designates an entire work place as a smoking area shall not be deemed in compliance with this paragraph.~~
- F. ~~Notwithstanding the above, every employer shall have the authority to designate any work area as a nonsmoking area.~~
- G. ~~The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.~~
- H. ~~All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.~~

**6.24.040 Allowing, Aiding or Abetting Illegal Smoking.**

- A. No person shall knowingly permit Smoking in an area under his, her, or its legal or de facto control where Smoking is prohibited by this chapter or other law.

- B. The person who has legal or de facto control of any Public Place or Place of Employment shall post a "No Smoking" or "Smoke Free" sign, with letters of no less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), at the primary entrance to each Public Place or Place of Employment in which Smoking is prohibited by this chapter. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

~~6.24.050~~ **REGULATION OF SMOKING IN EATING ESTABLISHMENTS.**

~~Every publicly or privately owned coffee shop, cafeteria, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food and/or any alcoholic beverage to the general public whose occupied capacity is more than forty (40) persons shall provide and maintain a nonsmoking area of at least fifty percent (50%) of the seating capacity. Every publicly or privately owned coffee shop, cafeteria, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food and/or any alcoholic beverage to the general public whose occupied capacity is less than forty (40) persons shall post a sign in a prominent place near the entrance of such establishment stating either that the establishment allows smoking or prohibits smoking. Excluded from the calculation of occupied capacity herein shall be those portions of such establishments which are located outdoors.~~

~~6.24.060~~ **EXEMPTIONS.** The following establishments are hereby exempted from smoking restrictions under this chapter:

- ~~(a) Bars;~~
- ~~(b) Banquet rooms used for private functions;~~
- ~~(c) Buildings owned or leased by county, state, and federal government agencies;~~
- ~~(d) Private homes which serve as offices.~~

~~6.24.070~~ **POSTING OF SIGNS.** Whenever in this code smoking is prohibited, conspicuous signs shall be posted so stating with letters of not less than one inch in height on a contrasting background, or an international "no smoking" symbol, a red circle with a diagonal bar across it, be clearly and conspicuously posted. It shall be the duty of the owner, operator, manager, or other persons having control of such room, building, or other place where smoking is prohibited, to post such signs or to cause such signs to be posted.

**6.24.0850 VIOLATIONS.** Violation of any provision of this Chapter shall be an infraction, punishable as provided in this Code by (1) a fine not exceeding fifty dollars for a first violation; (2) a fine not exceeding one hundred dollars for a second violation of the same section of this Code or Ordinance within one year; (3) a fine not exceeding two hundred fifty dollars for each additional violation of the same section of this Code or Ordinance within one year.

**6.24.0960 NON-RETALIATION.** No person or employer shall discharge, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this section.

**SECTION 2.** If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The El Segundo City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase or word not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be declared subsequently invalid or unconstitutional.

**SECTION 3.** This ordinance shall become effective at midnight on the thirtieth day from and after the date of the final passage and adoption thereof.

**SECTION 4.** City Clerk shall certify to the passage and adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said city; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen days after the passage and adoption thereof, cause the same to be published once in the El Segundo Herald, a weekly newspaper of general circulation, published and circulated within said City of El Segundo and which is hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_. 2020.

## CHAPTER 6

### SMOKING REGULATED OR PROHIBITED

#### ARTICLE A. REGULATION OF TOBACCO PRODUCT SALES

##### SECTION:

**5-6A-1: Purpose**

**5-6A-2: Definitions**

**5-6A-3: Prohibitions**

##### **5-6A-1: PURPOSE:**

This article is adopted pursuant to the city's police powers and California Business and Professions Code section 22960(c), including any successor statute, for the purpose of further restricting access to and reducing the availability of cigarette and tobacco products from vending machines or devices.

##### **5-6A-2: DEFINITIONS:**

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this article:

**BUSINESS:** Any sole proprietorship, joint venture, corporation, or other business entity formed for profit, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

**ELECTRONIC SMOKING DEVICE:** Means an electronic device that can be used to deliver an inhaled dose of nicotine or other substances including any component, part, or accessory of such device whether or not sold separately. The definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. Electronic Smoking Device does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such a product is marketed and sold solely for such an approved purpose.

**EMPLOYEE:** Any person who is employed by any employer in consideration for monetary compensation or profit.

**EMPLOYER:** Any person, partnership, corporation, including municipal corporation, who employs the services of more than four (4) persons.

**MINOR:** Any individual who is less than eighteen (18) years old.

**PERSON:** Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.



**SELF-SERVICE MERCHANDISING:** Open display of tobacco products and point-of-sale tobacco-related promotional products to which the public has access without the intervention of any employee.

**TOBACCO PRODUCT:** ~~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.~~ Means:

1. Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and
2. Any electronic smoking device with or without nicotine;
3. Includes any component, part, or accessory of a tobacco product whether or not sold separately;
4. Does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

**TOBACCO RETAILER:** Any person or governmental entity that operates a store, stand, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use.

**TOBACCO VENDING MACHINE:** Any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether coin or paper bill, or other thing representative of value, which dispenses or releases a tobacco product or tobacco accessories.

**VENDOR-ASSISTED:** Only an 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.

### **5-6A-3: PROHIBITIONS:**

- A. It is unlawful for a person or business to offer tobacco products or electronic smoking devices for sale without prominently displaying a sign at the point of purchase for tobacco products stating: "SELLING TOBACCO PRODUCTS TO PERSONS YOUNGER THAN ~~EIGHTEEN~~ TWENTY ONE YEARS OF AGE IS ILLEGAL. PHOTO ID IS REQUIRED TO PURCHASE ANY TOBACCO PRODUCT." (U.S. Active Duty Military personnel are exempt. The minimum age for tobacco products remains 18 for them.) The letters of the sign will be at least one-quarter inch (1/4") high.
- B. It is unlawful for any person, business, tobacco retailer, or owner, manager, or operator of any establishment to sell, offer to sell, or permit to be sold any tobacco product or

electronic smoking device to an individual without first examining identification that establishes the purchaser's age as at least ~~eighteen (18)~~ twenty one (21) years (U.S. Active Duty Military personnel are exempt. The minimum age for tobacco products remains 18 for them.) unless the seller has some reasonable basis for determining the buyer's age.

- C. It is unlawful for any person, business, tobacco retailer, or other establishment to sell or offer for sale any tobacco product or electronic smoking device that is not in the manufacturer's original packaging containing all required health warnings.
- D. It is unlawful for any person, business, or tobacco retailer to sell, permit to be sold, offer for sale, or display for sale any tobacco product or electronic smoking device by means of self-service merchandising, tobacco vending machine, including but not limited to, machines or devices that use remote control locking mechanisms, or by means other than vendor-assisted sales.
- E. Flavored Tobacco Products. No retailer shall sell a tobacco product or any product used in an electronic smoking device, containing as a constituent or additive an artificial or natural flavor or an herb or spice including but not limited to strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, coffee, mint, menthol, spearmint, or wintergreen that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product.

## Community Garden Idea:

- COVID19 and civil unrest across the country has drastically changed our countries sense of community. By expanding the community garden as a true garden open to the entire community, it will remote fresh and healthy food equity to all.
- [El Segundo Climate Action Plan](#) recommends Urban Greening which includes spaces such as community gardens. These spaces are "carbon sinks" as they store greenhouse gas emissions that are otherwise emitted into the atmosphere.
- The current [El Segundo Community Garden](#) is not a true community garden since all the spaces are rented via a lottery. There's currently no spots and the next lottery is January 2021.
- [Recreation Park](#) has many underutilized recreational spots to expand the community garden (ex. lawn bowling)
- Another idea is to add a community garden in the civic center as part of the [redevelop and repurpose](#) of Downtown. This would allow direct downtown access for the entire community.
- Community Garden surplus would go too CASE.
- Use reclaimed water from West Basin.
- QRTLY educational workshops on gardening and composting

## Various Funding Ideas:

- [Various grants](#) are available.
- Provide a community garden bed fundraiser where residents or businesses can donate money to pay for a garden bed and have their name engraved (Ex. Garden Bed donated by the Smith Family).
  - For a fee, residents or business can paint a tile for a mosaic in the garden (El Segundo Art Committee oversees the design)



- For a fee, residents can donate money to have their colorful handprint put on a garden bed



- Alternative idea is community members creating a non-profit and solicit donations from large businesses in town (as done in [Seal Beach](#)).
- Partial funding can also come from the [Art Fund](#) (Title 15 of Es Municipal Code) and partner with El Segundo Art Committee. Approx. \$685,000 in public art and fee revenues per year per [City Council Meeting Minutes](#). Art fee can't be used for landscape, but we can think of creative ways to incorporate the fund into the garden box design, storage shed, fencing or composting area.

### **Maintenance:**

- [Los Angeles Community Garden Council](#) has resources on starting a garden and forming a volunteer garden leadership group, writing articles of incorporation, bylaws, gardener agreements, and to develop community garden rules and guidelines.
- Via social media, scheduled community pruning/composting days advertised.
- Supplies stored in a shed.
- Compost from the city yard and from garden foliage.



# CITY OF EL SEGUNDO ENVIRONMENTAL COMMITTEE MEETING MINUTES

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Friday, October 2, 2020, 12:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 12:00pm, held virtually via Zoom.

2. ROLL CALL

The following Committee Members were present:

- Tracey Miller-Zarneke, Resident, Local Business, Committee Chair
- Corrie Zupo, Resident, Committee Vice-Chair
- Caroline Hawks, Resident, Member
- Kevin Maggay, Local Business, Member
- Sarah Brockhaus, Resident, Member
- Rachel McPherson, Resident, Member

The following Committee Members were not present:

- 1 vacancy, El Segundo School District, Member

The following City staff member(s) / Council member(s) were present:

- Jasmine Allen, City of El Segundo, Senior Management Analyst and Staff Liaison in the ex-official capacity, Public Works
- Elias Sassoon, City of El Segundo, Director, Public Works
- Scott Mitnick, City of El Segundo, City Manager
- Scot Nicol, City of El Segundo, Council Member

3. PUBLIC COMMUNICATION

One member of public attending:

- Chia-Ming Ro - resident

5. REPORTS: CITY STAFF

- a. Elias Sassoon informed the Committee "EC Council Update Presentation" will be in 2 parts: Update and Bee Keeping will take place on October 6<sup>th</sup>; Green Building presentation to be scheduled for another future date when a more collaborative approach is finalized, such as getting a firms and developers involved to work out the incentives.



## CITY OF EL SEGUNDO ENVIRONMENTAL COMMITTEE MEETING MINUTES

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- b. Elias Sassoon briefly discussed Leaf Blowers and shared his experience at Rancho Palos Verdes. A presentation created by Culver City outlining challenges with banning Leaf Blowers was also shared. Additionally, Elias Sassoon informed the EC members that Parks staff recently had purchased one Electric Leaf Blower; the demonstration indeed concluded that Electric Leaf Blower was as loud as the Gas Leaf Blower. Both Corrie Zupo and Council Member Nicol agreed to this finding from their experience. Moreover, Corrie Zupo commented that by eliminating gas leaf blowers "you don't get big gain for your buck".

6. ACTION ITEMS:  
None

7. REPORTS: ENVIRONMENTAL COMMITTEE MEMBERS
  - a. Solid Waste Reduction/Elimination of Single-Use Plastics (Caroline Hawks/Tracey Miller-Zarneke): discussed next steps for consideration.
  - b. Green Business Recognition Program (Corrie Zupo): no update.
  - c. Water Conservation (Rachel McPherson): no update on the research progress.
  - d. Discussed Green Construction Standards (Corrie Zupo/Sarah Brockhaus).
  - e. Smoking Ban (Kevin Maggay): Manhattan Beach model will be followed. Kevin will present his research at the next meeting.

8. CONSENT AGENDA:  
Approved Minutes from October 2, 2020 meeting. Kevin Maggay moved to approve; Rachel McPherson seconded it. Motion carried 4-0.

9. ADJOURNMENT  
Meeting adjourned at 1:11pm.