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Title: ***BILL NO. B-51 - (Intro. 12/1/2016) (For adoption) - Amending Sections 10-1103 and 10-1105 of the Fresno Municipal Code (FMC), Article 11 - the Smoking Pollution Control Ordinance (Smoking Ordinance)
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REPORT TO THE CITY COUNCIL

December 8, 2016

FROM: KEVIN R. MEIKLE, Director of Aviation
Airports Department

SUBJECT

***BILL NO. B-51 - (Intro. 12/1/2016) (For adoption) - Amending Sections 10-1103 and 10-1105 of the Fresno Municipal Code (FMC), Article 11 - the Smoking Pollution Control Ordinance (Smoking Ordinance)

RECOMMENDATION

Staff recommends City Council consider for introduction and adoption an Ordinance revising Sections 10-1103 and 10-1105 of the Fresno Municipal Code (FMC), Article 11 - the Smoking Pollution Control Ordinance (Smoking Ordinance). The Ordinance will update the City's Smoking Ordinance to statewide definitions of "Smoking" and "Tobacco product" which include electronic devices, and declare certain areas of the Fresno Yosemite International Airport (FAT) and Fresno Chandler Executive Airport (FCH) "public places."

EXECUTIVE SUMMARY

Recent state legislation revised the definition of smoking to include electronic smoking devices that create aerosol or vapor. The proposed revision to FMC Section 10-1103 is consistent with the revised state statute, such that using an e-cigarette is “smoking” and electronic smoking devices are “tobacco products” for the purposes of the Smoking Ordinance.

The proposed revisions to Section 10-1105 (Prohibition of Smoking in Public Places) includes subsection “m” stating the exterior areas of FAT and FCH are “public places” under the Smoking Ordinance. The proposed update will allow the City to mitigate exposure to second-hand smoke in congested, confined, and sensitive areas (such as air intake areas) around FAT and FCH.

BACKGROUND

The Governor signed SBX2-5 on May 5, 2016, which expanded the state definition of Smoking and Tobacco Products to include electronic smoking devices. Accordingly, the proposed revisions to FMC § 10-1103, Definitions, updates the FMC to be consistent with state law by including electronic smoking devices in “smoking” and “tobacco product.” The proposed update mirrors the new law, codified in California Business and Professions Code § 22950.5.

The proposed revisions to FMC Article 11, Section 10-1105 - Prohibition of Smoking in Public Places will declare the frontage areas at FAT and FCH are “public places” at which smoking is prohibited. This update will comply with state and federal regulations and goals for public health and safety. The state Legislature has declared state smoking regulations provide merely baseline regulations, and because “nonsmokers have no adequate means to protect themselves from the damage inflicted upon them when they involuntarily inhale tobacco smoke,” and “regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers” (Cal. Health and Safety Code 118920), local governments may regulate smoking in a manner consistent with state laws.

Citing stress among travelers caused by use of e-cigarettes on airplanes, the Federal Aviation Administration (FAA) modified its regulations to prohibit the use of e-cigarettes or other devices that create an aerosol or vapor on board commercial aircraft in 2016. FAA regulations demand airline operations are safety-driven, and reducing stress level is a key component of ensuring a safe and positive travel experience. The proposed updates will comply with state and federal law and permit FAT and FCH’s travelers and families to have an experience free from the stress and health consequences of secondary smoke.

ENVIRONMENTAL FINDINGS

Pursuant to CEQA Guidelines Section 15378, this is not a “project” for the purposes of CEQA.

LOCAL PREFERENCE

Local preference does not apply because the proposed Ordinance amending the FMC does not include a bid or award of a construction or services contract.

FISCAL IMPACT

The proposed Ordinance produces no fiscal impact to the Airports Enterprise Fund, nor is there

any impact to the General Fund from this item.

Attachment:
Ordinance for Introduction