

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: 4/21/08  
Reviewed by: *BP*

**SUBJECT:** Ordinance #08-03 – Prohibiting smoking in or around workplaces, recreational areas, and other places and amending the Albany Municipal Code

**REPORT BY:** Judy Lieberman, Assistant City Administrator  
Beth Pollard, City Administrator

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**RECOMMENDATION**

Introduce for first reading Ordinance #08-03.

**BACKGROUND**

At its meeting of March 3, 2008, the City Council received a recommendation from the Social & Economic Justice Commission on proposed changes to the City's smoking regulations. A summary of the Commission's recommended changes is contained in the attached staff report for the March 3 Council meeting.

After review and public comment on the Commission recommendations, the Council asked the City Attorney to prepare an ordinance that incorporated the Commission's recommended changes and Council direction.

**DISCUSSION**

Among the issues discussed by Council at the March 3 meeting were:

- 1) No smoking on sidewalks on Solano Avenue. The Commission recommended a one-year trial period. Councilmembers expressed concern about this time clause. It has not been included in the draft ordinance. If Council wishes to review and/or make changes to this no smoking provision in one year, it can do so without including that wording in the ordinance.
- 2) No smoking on sidewalks on San Pablo Avenue. The Commission recommended allowing smoking on the sidewalks of San Pablo Avenue. There

was Council discussion on whether, instead, smoking could be prohibited but have an “opt out” provision for businesses or property owners that preferred to allow smoking on the adjacent sidewalk. There was also mention of consistency with the City of Berkeley’s ordinance (see Attachment 3). There was not clear Council direction to include a prohibition of smoking on the sidewalks of San Pablo Avenue.

Staff was not able to develop any “opt out” language that would be reasonable and workable. The City of Berkeley has passed for first reading an ordinance that prohibits smoking on sidewalks in all commercial districts, which includes much if not all of San Pablo Avenue. One of the factors that both Albany and Berkeley staff have had to consider is the difficulty for the public to comply and enforcement personnel to enforce if there is a patchwork of regulation and boundaries are unclear.

- 3) School zones. The draft ordinance prohibits smoking on sidewalk areas adjacent to public or private school property.
- 4) Exception for The Pub on Solano Avenue. The Commission recommended providing an exception for The Pub restaurant on Solano Avenue. Staff does not recommend singling out a specific name, but instead drafted the ordinance to allow smoking in unenclosed areas of a Bar that does not serve food, with the exception of the unenclosed areas of any bars where food has been served for at least 90 days prior to the passage of the ordinance.

The remaining recommendations from the Commission are generally incorporated into the draft ordinance as proposed.

### **FINANCIAL IMPACT**

There will be a cost for any signage that the City cannot obtain through other agencies. There will be public works staff time involved in any City posting of signs in the right of way. There will be police officer time involved in any enforcement activities.

#### Attachments:

- 1) Draft ordinance #08-03
- 2) City Council staff report, March 3, 2008 (see website archives for attachments)