

AGENDA

Meeting of the Scotts Valley Parks and Recreation Commission

Date: May 15, 2014

Time: 6:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 438-3251	MEETING LOCATION Recreation Division Offices 361 Kings Village Road Scotts Valley, CA 95066	POSTING: The agenda was posted 5-12-14 at City Hall, SV Senior Center, SV Recreation Offices and on the Internet at www.scottsvalley.org .
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<i>Council Appointed Commissioners</i> <i>Eric Seib, Chair</i> <i>Wendy Brannan, Board Member</i> <i>David Sanguinetti, Board Member</i> <i>Pam Smith, Board Member</i> <i>Nick Thelen, Board Member</i>	<i>City Staff Members</i> <i>Scott Hamby, Public Works Director</i> <i>Kristin Ard, Recreation Division Manager</i> <i>Carol O'Neil, Administrative Secretary</i>
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Notice regarding Parks and Recreation Commission Meetings:

The Parks and Recreation Commission is scheduled to meet on the 3rd Thursday of each month at 6:00 pm in the Recreation Division offices located at Skykpark Park located at 361 Kings Village Road, Scotts Valley, CA 95066.

Agenda and Agenda Packet Materials:

The Parks and Recreation Commission agenda is available for review by 5:00 pm the Monday before the Thursday meeting on the Internet at the City's website: www.scottsvalley.org and in the registration office of the Recreation Office, located 361 Kings Village Road, Scotts Valley, CA. Pursuant to Government Code '54957.5, materials related to an agenda item, submitted after distribution of the agenda packet, are available for public inspection in the registration office of the Recreation Office during normal business hours, Monday-Friday, 8:00 am to 5:00 pm. In accordance with AB 1344, such documents will be posted on the City's website at www.scottsvalley.org.

CALL TO ORDER 6:00 p.m.

ROLL CALL

PUBLIC COMMENT TIME

This portion of the agenda is reserved for discussion by the public of items which are **NOT** agendized. No action may be taken by the commission except to refer the matter to staff and/or place it on a future agenda. It is in the best interest of the person speaking to the commission to be concise and to the point. All speakers are requested to sign their name at the podium so their name may be accurately recorded in the minutes of the meeting. A time limit of three minutes per individual will be allowed.

ALTERATIONS TO CONSENT AGENDA

(Commissioners can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

- A. Approve Parks and Recreation Commission special meeting minutes of 4-24-14

ALTERATIONS TO REGULAR AGENDA

(Commissioners can remove or add items to the Regular Agenda.)

REGULAR AGENDA

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

1. Recreation Division Park and Program Update - staff report
2. Lennar Meeting for Playground Timeline and Parameters - staff report
3. Community Garden Update – staff report
4. Smoking Ordinance – staff report
5. Octagon Building Relocation - oral
6. Future Agenda Items

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The Commission meeting locations are accessible facilities. If you wish to attend a Commission meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the Recreation Office at 831-438-3251 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a Commission meeting be available in an alternative format consistent with a specific disability, please call the Recreation Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

**CITY OF SCOTTS VALLEY
PARKS AND RECREATION COMMISSION
SPECIAL MEETING MINUTES
April 24, 2014**

CALL TO ORDER: 6:00pm

ATTENDANCE: Commissioner Seib, Chair
Commissioner Brannan
Commissioner Sanguinetti
Commissioner Smith
Commissioner Thelen

ABSENT:

STAFF: Public Works Director Hamby
Recreation Division Manager Ard
Administrative Secretary O'Neil

GUESTS:

PUBLIC COMMENT

Mark Oliverez, Scotts Valley resident and youth lacrosse coach, was present to ask about the process to discuss use of funds the city will be receiving from Lennar Homes. He is interested in upgrading one field at Skypark into a turf field.

Commissioner Seib reminded Commissioners to RSVP to Kristin Ard regarding Parks and Rec Commission meeting attendance to avoid last minute cancellations due to lack of a quorum.

ALTERATIONS TO REGULAR AGENDA

None

CONSENT AGENDA

Approve minutes of March 20, 2014.

M/S: Brannan/Sanguinetti

Approve: 5/0/0

ALTERATIONS TO REGULAR AGENDA

REGULAR AGENDA

Recreation Division Park and Program Update

RDM Ard reported on current Recreation and Senior Center activities and programs. Commissioner Brannan and RDM Ard visited the parks recently to identify locations where a Contribution Program

bench or table could be placed. They also noted that Siltanen Park could use an ADA water fountain, and Hocus Pocus Park an oak tree.

Lennar Meeting for Playground Timeline and Parameters

RDM Ard confirmed that Lennar Homes has signed the development agreement with the City, and one half of the funds for the Polo Barn have been received, with the balance due in 90 days. A meeting with Lennar representatives could be scheduled for June or July when it is expected that grading will begin. At the April 2 meeting, City Council approved including both parcels C and D in the agreement, but as of tonight the minutes of this meeting were not available for review.

Commissioners asked staff to obtain and email to them a copy of this resolution from the April 2 City council Meeting, and to find out the deadline for the balance of the payment from Lennar.

Community Garden

RDM Ard presented a draft of rules and regulations proposed for the Community Garden for Commission review. Commission discussed process for easy access/handicap access plots, and the need to comply with existing laws, current water district regulations and other City ordinances. Staff will talk with the City Attorney regarding consequences for non-compliance, and any special use park ordinances.

M/S: Seib/Thelen

Accept this draft of rules and regulations for the Community Garden, to be returned to the Commission for further review with input from City Attorney.

Carried: 5/0/0

Prioritization of City Wide Evaluation

RDM Ard advised that Doug Evers, of Proactive Risk Management Services, has completed his evaluation of City parks, and presented an outline of the recommendations rated low, moderate or high priority. She has been working with Public Works staff to correct problems, and many items have been completed.

Future Agenda Items

Smoking Ordinance, including e-cigarette
Community Garden Rules
CPRS/Notification of Changes in State Law
Octagon Building

Next Meeting: May 15, 2014

Adjourned: 7:35 pm

Agenda No. ____1____

Date __May 15, 2014__

City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: May 15, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
SUBJECT: Recreation Division Update

SUMMARY OF ISSUE

Recreation Division:

The Recreation Division is seeing an increase in revenues in all areas; School-Age Recreation, Sports, Aquatics, Classes, Facility Rentals, and other revenues. Summer registration has begun and is showing a good start.

Recreation Division Manger Ard completed a four-day disaster training for Cal OES with four other City employees and many others from around the County. The training was intense with very good information and exercises. RDM is looking forward to following up with the other City employees to debrief and see what the City's needs are.

School-Age Recreation and Aquatics employees teamed together for the first Twilight Swim last Friday from 6-8pm. It was an exciting success!!! There were 20 in attendance for a family fun BBQ and evening swim. Both programs are looking forward to the next one in July.

Senior Center:

The Senior Center is celebrating Cinco De Mayo on Friday, May 16 from 5:00-6:30pm! Arriba!!!

Parks Update:

The excavation of the sand at Hocus Pocus was successful! Public Works Maintenance employees excavated each bit by hand. They inspected and tested the drainage and it works well. Wood chips were brought in to replace the sand. The project was completed on time

within the five allotted days. I also was able to get 45 cubic yards of wood chips for Skypark at a lesser charge since Jet Mulch was making a third trip over for delivery at Hocus Pocus and it was not a full load.

Ordinances/State Law Updates:

Recreation Division Manger Ard met with City Attorney regarding being informed on changes in Ordinances and State Laws. When an ordinance is changed, the City Clerk sends the new ordinance in writing to each department. If a State Law is updated/new, the City Attorney will notify the appropriate department as needed.

Pump Track:

The Pump Track is moving forward. Public Works will provide water for constructing the track. Recreation Division Manager Ard will ensure that the trees are protected and a video of the parking area will be submitted to planning to record the property before construction begins.

FISCAL IMPACT

Will be determined by each project.

STAFF RECOMMENDATION

Enjoy!

City of Scotts Valley
PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: May 15, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
APPROVED: Scott Hamby, Public Works Director
SUBJECT: **Lennar Meeting for Playground Timeline and Parameters**

SUMMARY OF ISSUE

The City received \$500,000 of the \$1,000,000 from Lennar for not removing the Polo Ranch Barn. The second \$500,000 is to be received by July 2, 2014. Council has asked the Parks and Rec. Commission to be involved in the planning of the playground area which will be located on the old Polo Ranch Barn property and to submit an itemized list of needs within the City's parks and recreation programs.

The Commission requested two dates for when Lennar would be available to meet with them. Recreation Division Manager Ard spoke with Community Development Director Kates and he said it is too early to schedule with Lennar. He will notify the RDM when the time is appropriate and be the liaison between the Commission and Lennar for setting the two dates. Commission also requested a copy of the Amendment Agreement between the City and Lennar Homes from the April 2 Council meeting.

Attached is a copy of City projects/needs for Commission to review in order to give Council an itemized list. RDM Ard would like input on the list from the Commission.

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

To finalize an itemized list of projects/needs for RDM Ard to report back to Council.

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**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BY AND BETWEEN CITY OF SCOTTS VALLEY AND
LENNAR HOMES OF CALIFORNIA, INC.
(PLANNING DEPT. FILE NO. DA09-001.1)**

This First Amendment to Development Agreement (the "Amendment") is entered into as of _____, 2014, by and between Lennar Homes of California, Inc. ("Developer") and the City of Scotts Valley ("City").

RECITALS

A. City, as the "City" thereunder and Developer as the "Developer" thereunder are party to that Development Agreement entered into as of August 19, 2009 (the "Agreement"). The Effective Date of the Agreement is September 2, 2009, which is the date the ordinance approving the Agreement became effective. All terms used herein shall have the meaning specified in the Agreement unless provided otherwise in this Amendment.

B. City and Developer now desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer agree as follows:

1. Effective Date. This Amendment shall become effective upon the date the ordinance approving this Amendment becomes effective and approval/issuance of a Historic Landmark Demolition Permit.

2. Section 3.09 of the Agreement is hereby deleted and the following substituted in its place and stead:

"Section 3.09 Polo Barn, Parcel D and Park.

(a) Developer shall submit the following applications to change the disposition of the historic Polo Barn from the "Lot 41/Parcel D" option (relocating the historic Polo Barn and caretaker's quarters on site to Parcel D for a future use to be determined by the City) to the "Dismantle/Demolition" option (demolish the Polo Barn and caretaker's quarters), which were evaluated in the project Draft Environmental Impact Report (DEIR) and Final Environmental Impact Report (FEIR) approved on August 19, 2009: Mitigation Monitoring and Reporting Amendment (five mitigation measures), Planned Development Permit Amendment, Historical Landmark Alteration Permit Rescission,

Historical Landmark Demolition Permit, all subject to amended Conditions of Approval in City Council Resolution No. 1830.A, Ordinance No. 16-ZC-217.1.A, and Resolution No. 1830.3.A, respectively.

- (b) Developer shall, at its sole cost and expense, demolish the Polo Barn Complex, however, (i) prior to filing the final map and demolishing the Polo Barn Complex, the Developer shall, at its sole cost and expense, photo-document both the interior and exterior of the Polo Barn Complex in accordance with the standards of the Historic American Building Survey; and (ii) prior to the occupation of any dwelling units on the Project Site, Developer shall contract with a qualified salvage company (approved by City) with experience in the removal and storage of historic materials to perform the demolition work.
- (c) Attached hereto as Exhibit "1" is a description of preliminary plans for the construction and development of Parcel D as a park including, without limitation, a gazebo, picnic benches, restrooms, earthen trail and parking (the "Preliminary Park Plans"). Developer shall, at its sole cost and expense, develop final plans for a park on Parcel D, substantially in accordance with the Preliminary Park Plans, to be reviewed by the Parks and Recreation Committee with their recommendations forwarded to the City Council for decision. ("Final Park Plans"). Developer shall at its sole cost and expense, grade Parcel D as required by the approved grading plans for the Project Site and construct and install a park (the "Park") in accordance with the Final Park Plans. As part of the Subdivision Improvement Agreement, Developer shall post of bond for the completion of the Park. The Park shall be completed to the satisfaction of the Public Works Director before a Certificate of Occupancy and/or a final building permit inspection of the 30th dwelling unit.
- (d) Developer shall retain ownership of Parcels C and D and upon completion, the park shall be open to the public from dawn to dusk. Developer, or its successors and assigns, shall be responsible for the ownership, operation, maintenance and repair of all improvements on Parcel D, including the Park, in accordance with the Final Park Plans. Parcel D is subject to increase in size per Condition of Approval 14 and a recorded Final Map.

3. Developer shall, pay to City the sum of One Million Dollars (\$1,000,000.00) to be used for park and recreational opportunities in the City at the discretion of the City Council. The payment shall occur upon execution of this Amendment.

4. Notices. Section 6.11 of the Agreement is amended to provide that all Notices to Developer shall be as follows:

If to Developer to: Brent Reed or Michael Snoberger
Lennar Homes of California, Inc.
6111 Bollinger Canyon Road, Suite 550
San Ramon, CA 94583
Telephone: (925) 242-0811
Facsimile: (925) 242-0833

Copies to: Herbert N. Samuels, Esq.
Samuels, Green & Steel, LLP
19800 MacArthur Boulevard, Suite 1000
Irvine, CA 92612
Telephone: (949) 263-0004
Facsimile: (949) 263-0005

5. Recordation of Amendment. Pursuant to California Government Code Section 65868.5, no later than ten (10) days after this Amendment becomes effective, the City Clerk shall record an executed copy of the Agreement and this Amendment in the Official Records of the County of Santa Cruz.

6. This Amendment is executed in two duplicate counterparts, each of which is deemed to be an original.

7. The Agreement shall continue in full force and effect in accordance with its terms as amended by this Amendment.

IN WITNESS WHEREOF, this Amendment has been entered into by and between Developer and City as of the date and year first above written.

"DEVELOPER"

"CITY"

LENNAR HOMES OF CALIFORNIA, INC.

CITY OF SCOTTS VALLEY

By:  _____

By: _____

Name: Gordon D. Jones

Name: _____

Title: V. P.

Title: _____

[NOTARY ACKNOWLEDGEMENTS ON
ACKNOWLEDGMENTS ON FOLLOWING PAGE]

May 15, 2014 - City-Wide Projects/Needs

	Project	
1	New modular units at VH and BK with bathrooms and kitchen	
2	Hillside erosion – Siltanen Park pool	
3	Playground signs at each park for ages 2-5 and ages 5-12 (total of 10 signs)	
4	Wheelchair access platforms at MacDorsa, Siltanen and Skypark 5-12 and 2-5; Entry ramp at Skypark 5-12; Pour in place at MacDorsa, Siltanen, Hocus Pocus, Skypark 5-12	
5	ADA accessible drinking fountain at tennis courts, Skypark	
6	Van for Recreation Division	
7	Picnic Tables for Skypark Birthday Gazebo	
8	Gazebo for Skypark	
9	Tables and Chairs for Community Center	
10	Tennis court resurfacing at Skypark	
11	Basketball court resurfacing at Hocus Pocus, Skypark	
12	Storage shed at tennis court, Skypark	
13	Sidewalks around Bocce courts, Skypark	
14	Shade for Bocce courts, Skypark	
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City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: May 15, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
APPROVED: Scott Hamby, Public Works Director
SUBJECT: **Community Garden Update**

SUMMARY OF ISSUE

Recreation Division Manager Ard met with the City Attorney to review Community Garden Rules and Regulations and Application per the Commission's request. Appropriate corrections have been made to the Application and Rules and Regulations Forms. Recommendation for plot price is \$1.00 a square foot.

FISCAL IMPACT

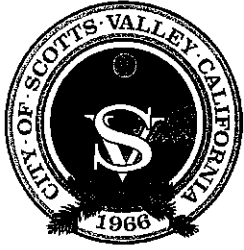
Approximately \$10,000 from Community Center fund for purchase of materials.

STAFF RECOMMENDATION

To approve Community Garden Rules and Regulations, Application and Cost.

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WELCOME to the Annette Marcum Community Garden!

The fundamental premise for the establishment of the Community Garden in the City of Scotts Valley is to provide a space for growing food and ornamentals in an organic environment.

Being a community garden, each person gives up some individuality in order to work together as a community to achieve this goal.

Those interested in renting a garden plot will:

- Submit an application by _____ 2014 to the Recreation Division Office, 361 Kings Village Road, Scotts Valley, CA 95066.
- A random draw lottery will be held on _____ 2014 to select participants and determine plot size.
- Participants will be notified and pay first year fees before preparation and planting can begin.
- Garden plots are available only to City of Scotts Valley residents age 18 and older. Proof of residency will be needed.
- Garden fees are non-refundable and plots are non-transferable; if you decide to give up your plot, please contact the Recreation Division Office.
- Current plot holders will have priority to relocate to a different plot if one becomes available.
- Upon renting/renewing your garden plot, you must sign an agreement and abide by both park and garden rules

Community Garden participants must follow all rules set for Scotts Valley parks and in addition, the following rules and conditions have been outlined for the Community Garden. Failure to comply with the rules will result in loss of plot use.

1. Community Garden Hours: Sunrise to Sunset.
2. All water use must comply with Scotts Valley Water District regulations.
3. Use of fertilizer material or tillage methods harmful to humans, the soil structure, fertility or soil micro-organisms is not acceptable.
UNACCEPTABLE: Ammonium sulfate, muriate of potash, super-phosphate highly soluble chemical fertilizers, rotenone, pyrethium, sevin, malathion, diazinon, nicotine sulfate.
ACCEPTABLE: Cottonseed, blood, bone, horn or hoof meals, kelp, manure, compost, liquid fish or seaweed, bacillus, thruigienses, soap spray, pepper and onion spray, sulphur, wood ashes, sour milk solution, traps, tanglefoot, marigolds, netting, lady bugs, lace wings, and similar methods and similar fertilizers classified as "organic".
4. Gardens should be kept clean and must be maintained at all times. **Weeds must be under control yearlong;** this includes all adjoining walkways. Seedling weeds have a negative effect on all surrounding garden plots. **It is your responsibility to maintain the walkways between plots so gardeners can move freely through the area.**

5. Gardeners must plant and keep all vegetation within the established plot boundaries. There is absolutely no planting outside your designated plot boundary. Gardeners are not to plant, go into, or take items from other garden plots without prior approval.
6. All gardeners are to supply their own hoses. Hoses may be left attached to the water bib if there is an agreement with neighbors to share the hose. All hoses must be free of holes or leaks. Do not let water run attended.
7. Organic garden refuse not used as compost should be placed in the designated green waste containers. Non-organic refuse must be hauled away or placed in the garbage bin. This includes all bottles, cans, plastic bags, etc.
8. No trees are to be planted in the gardens, including dwarf varieties.
9. No permanent structures are allowed in the gardens, including tools and supplies.
10. No grass clippings are to be brought into the gardens due to the possibility of accidental introduction of Bermuda grass, weeds, etc.
11. No dogs are allowed in the Community Garden.
12. Report all vandalism and/or damage directly to the Scotts Valley Police Department (831) 440-5670 and to the Parks and Recreation Division (831) 438-3251.
13. Report violations to rules and regulations to the Parks and Recreation Division (831) 438-3251.
14. The Parks and Recreation Division is not responsible for any losses or damages.
15. Only one plot per household. Any gardener renting more than one plot under a false name will lose both plots. One plot per person, unless approved by Recreation Division Manager.
16. The Parks and Recreation Division reserves the right to render final decisions concerning the above rules and conditions.



CITY OF SCOTTS VALLEY

RECREATION DIVISION

361 Kings Village Road • Scotts Valley • California • 95066
Phone (831) 438-3251 • Facsimile (831) 438-2557 • www.scottsvally.org

Annette Marcum Community Garden

Please print all information

Applicant/Contact Person _____

Address _____

City _____ State _____ Zip Code _____

Day Phone(____) _____ Cell Phone(____) _____

Email _____

- Yes, I would like my phone numbers made available to other gardeners on the Community Garden roster.

I prefer: An in-ground plot _____ A raised bed _____

Indicate size 1st, 2nd, 3rd choice : Small _____ Medium _____ Large _____

Disclaimer/Waiver

The undersigned states: The information I have provided to the City of Scotts Valley, Recreation Division is true and correct. If this plot is issued to a group or entity, I am the authorized representative of the group or entity, and I am empowered to make this agreement on its behalf; I have read and understand the application and Rules and Regulations. Both individually and on behalf of the group or entity, I agree to them, and will comply with them as well as all laws and ordinances of the City of Scotts Valley.

In consideration of participation in the Community Garden, I hereby indemnify and hold harmless and release the City of Scotts Valley, its agents and employees from any and all liability for injury suffered by myself arising from or connected with this program and I assume all risk for any injuries. I/we agree to allow the use of my/our photograph for program publicity.

Applicant Signature

Date

OFFICE USE

Proof of residency: _____

Payment made: _____

City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: May 15, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
APPROVED: Scott Hamby, Public Works Director
SUBJECT: **City Smoking Ordinance \$ Electronic Cigarettes**

SUMMARY OF ISSUE

Commission requested an update on the City Smoking Ordinance & Electronic Cigarettes. Smoking Ordinance 8.20.040C2 states there is no smoking in the City parks. April 16, 20014 Council voted and adopted that Electronic Cigarettes will fall under the same ordinance as the City's Smoking Ordinance. The ordinance will that place thirty days from April 16.

FISCAL IMPACT

No fiscal impact.

STAFF RECOMMENDATION

Topic is for review and discussion.

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Smoking and Tabacco Regulations
Electronic Cigarettes Ordinance

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Scotts Valley, California, Code of Ordinances >> - SUPPLEMENT HISTORY TABLE >> Title 8 - HEALTH AND SAFETY >> Chapter 8.20 - SMOKING AND TOBACCO REGULATIONS >>

Chapter 8.20 - SMOKING AND TOBACCO REGULATIONS

Sections:

8.20.010 - Findings and purpose.

8.20.020 - Definitions.

8.20.030 - Application to city-owned facilities.

8.20.040 - Prohibition of smoking in enclosed public places and places of employment.

8.20.050 - Smoking policy in places of employment.

8.20.060 - Smoking optional areas.

8.20.070 - Placement of signs.

8.20.080 - Enforcement.

8.20.090 - Violations—Penalties.

8.20.100 - Nonretaliation.

8.20.110 - Public education.

8.20.120 - Other applicable laws.

8.20.010 - Findings and purpose.

- A. The city council of the city of Scotts Valley does hereby find that:
1. In January, 1993, the United States Environmental Protection (EPA) released its report, Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Simultaneously, the EPA designated passive smoking a Class A or known human carcinogen. The EPA has determined that environmental tobacco smoke (ETS) is a human lung carcinogen.
 2. The Surgeon General labels smoking "the largest single preventable cause of death and disability for the U.S. population." The Surgeon General has determined that tobacco smoke is a carcinogen and an important risk factor for heart disease.
 3. The National Institute for Occupational Safety and Health (NIOSH) has determined that ETS is potentially carcinogenic to occupationally exposed workers.
 4. While all members of the population are at increased risk due to exposure to ETS, it constitutes a special health hazard for children, the elderly, and people with chronic lung disorders and disease.
 5. The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.
 6. ETS is an offensive annoyance and irritant to nonsmokers, and can result in serious and significant physical discomfort, thus constituting a public nuisance in public places and places of employment.
- B. Accordingly, the city council finds and declares that the purposes of this chapter are:
1. To protect public health, safety and general welfare by restricting tobacco smoking in public places and in places of employment; and
 - 2.

To recognize that the need to breathe tobacco smoke-free air has priority over the desire to smoke. (Ord. 129.1 § 2 (part), 1994)

8.20.020 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

Bar, Stand Alone. "Stand alone bar" means an area in which (1) the serving of alcoholic beverages for consumption by patrons on the premises is its primary purpose; and (2) persons under the age of twenty-one are not permitted on the premises. A "stand alone bar" for the purpose of this chapter does not include any bar which is structurally part of a building also hosting other business operations, unless it is physically separate from other uses in the same building and has a separate ventilating system ventilating directly to the outside of the building.

"Employee" means any natural person who is employed by any employer in consideration for direct or indirect monetary wages or profits, including but not limited to temporary, permanent, part-time and full-time employees and independent contractors.

"Employer" means any person, as defined in this section, who employs the services of one or more persons.

"Enclosed" means closed in by a permanent roof and the exterior walls with appropriate openings for ingress, egress and ventilation.

"Hotel" means a hotel, motel, motor inn, bed and breakfast, boarding house and other similar establishments in which the operator has the status of an "innkeeper."

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, municipal corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Place of employment" means any area under the control of a public or private employer which employs normally frequent during the course of employment, including, but not limited to, offices, work areas, hallways, lobbies, employee lounges, conference rooms, employee cafeterias, locker rooms, dressing areas or eating places. A private residence is not a place of employment for purposes of this chapter, unless it is used as a child care facility, health care facility or community care facility.

"Smoking" means the carrying or holding of a lighted pipe, cigar or cigarette in which tobacco is being burned.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, pool halls and other similar places where members of the public assemble indoors to engage in physical exercise, participate in athletic competition or witness sports events. (Ord. 129.1 § 2 (part), 1994)

8.20.030 - Application to city-owned facilities.

All facilities owned or controlled by the city, including but not limited to jails, cafeterias, libraries, offices and any council, board, commission and/or agency meeting area shall be subject to the provisions of this chapter. (Ord. 129.1 § 2 (part), 1994)

8.20.040 - Prohibition of smoking in enclosed public places and places of employment.

- A. Except as otherwise provided in Section 8.20.060, smoking shall be prohibited in all enclosed public places within the city, including but not limited to the following places. The use of the phrase "public place" in this chapter is intended to be expansive. The following examples are illustrative of places deemed public for purposes of this chapter. The prohibition of this chapter is not limited to the list of examples.
1. Elevators;
 2. Restrooms;
 3. Service lines;
 4. Laundromats;
 5. Retail stores and all areas in shopping malls inside and outside of retail stores, restaurants, bars, restrooms and offices;
 6. Areas available to or open to and customarily used by the general public in all business and nonprofit entities, including but not limited to offices (such as the offices of attorneys, doctors, accountants, other professionals and service providers and banks;
 7. Restaurants;
 8. Hotels;
 9. Aquariums, amusement parks, galleries, libraries, arcades or museums;
 10. Facilities which are primarily used as theaters, auditoriums or halls; or which are used for exhibiting motion pictures, stage dramas, musical performances, ballets, lectures, debates or other similar performances;
 11. Waiting rooms, hallways, wards, and rooms and offices of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
 12. Sports arenas, convention halls, banquet rooms and meeting rooms;
 13. Retail food marketing establishments, including grocery stores, convenience stores, warehouse stores and supermarkets;
 14. Rooms, chambers, places of meeting or public assembly, including but not limited to, school buildings under the control of any board, council, commission, committee including joint committee, or agencies of the city, or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
 15. Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes and other multiple-unit residential facilities;
 16. Lobbies, hallways, and other common areas in multiple-unit commercial facilities;
 17. Polling places;
 18. Private clubs.
- B. Except as otherwise provided in Section 8.20.060, smoking shall be prohibited in all enclosed places of employment within the city.
- C. Smoking shall be prohibited in the following nonenclosed public places within the city:
1. Service lines for retail, service or entertainment venues;
 2. City parks, except where posted "smoking permitted";
 - 3.

Community pools or play areas (such as in multifamily developments), except where posted "smoking permitted";

4. Within twenty-five feet of the main entrance used by employees or customers of any business, except for those places specifically exempted by Section 8.20.060
5. Ticket, boarding and waiting areas for public transit, except for areas posted "smoking permitted." (Ord. 129.1 § 2 (part), 1994)

8.20.050 - Smoking policy in places of employment.

- A. Within ninety days of the effective date of this chapter, each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, locker rooms, dressing areas, and all other enclosed facilities.

- B. The smoking policy shall be communicated to all employees within three weeks of its adoption.
- C. All employers shall comply with the provisions of this section and shall be responsible for implementation of its provisions in their place(s) of employment.
- D. "No smoking" signs may be conspicuously posted at building entrances and in employee lounges, restrooms, locker rooms, dressing areas, cafeterias and lunchrooms. The minimum size of signs posted under this section shall be six inches by four inches.
- E. All employers shall make available a written copy of the smoking policy to any employee who so requests.
- F. Places of employment exempt from the prohibition on smoking in Section 8.20.060 of this chapter shall also be exempt from this section. (Ord. 129.1 § 2 (part), 1994)

8.20.060 - Smoking optional areas.

- A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter, unless smoking or the use of combustible materials is otherwise regulated by the city code or any other provision of law or regulation.
 1. Private residences, except when used as a child care facility, health care facility or community care facility;
 2. Smoking optional hotel rooms rented to guests, which shall not include meeting and banquet facilities. Hotels shall reserve and maintain no less than seventy-five percent of the guest rooms as smoke-free rooms;
 3. An enclosed place of employment which employs only the owner and no other employee, provided that the enclosed place of employment does not share a ventilation system with any other enclosed place of employment or public place;
 4. Any portion of a place of employment which is not enclosed, except within twenty-five feet of the main building entry/exit used by employees or customers, or in the direct and unavoidable path between a parking area and the main building entry/exit;
 5. Private vehicles;
 6. Stand alone bars;

7. Enclosed areas, while bingo games are being conducted pursuant to Penal Code Section 326.5 and with a valid conditional use permit, provided that: (a) no person under the age of twenty-one years is present on the premises, (b) physically separate smoke-free room(s) are provided to patrons, and (c) a separate ventilation system is provided for room(s) where smoking is allowed. The operator of a bingo game shall comply with the requirements of this chapter within six months of the effective date of this chapter.
- B. Notwithstanding any other provision of this chapter, any owner, operator, manager or other person who controls any property may prohibit smoking within the entire property or a portion of the property. (Ord. 129.1 § 2 (part), 1994)

8.20.070 - Placement of signs.

"No smoking" signs 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) shall be clearly, sufficiently and conspicuously posted in every building, as well as on entrances at eye level, or other places where smoking is prohibited by this chapter, by the owner, operator, manager or other person having control of such building or other place, in order to satisfy the nonresponsibility clauses of Section 8.20.080 E through G. The minimum size of signs posted under this section shall be six inches by four inches. (Ord. 129.1 § 2 (part), 1994)

8.20.080 - Enforcement.

- A. Notice of these regulations shall be given to all applicants for a business license.
- B. Enforcement of this chapter shall be implemented by the city manager or his/her designee.
- C. Any person who desires to register a complaint under this chapter may initiate enforcement with the city manager or his/her designee.
- D. The city manager or his/her designee shall require, while a premises or establishment is undergoing otherwise mandated inspections, certification from the owner, manager, operator or other person having control of such establishment, that all requirements of this chapter have been complied with, including but not limited to the requirements of Sections 8.20.050 and 8.20.070
- E. Owners, operators, property managers and officers of homeowners' associations for residential properties shall not be responsible for violations of the requirements of this chapter by tenants or residents if they have posted signs in accordance with the provisions of this section and have given written notice to violator(s) of this chapter that the violator(s)' actions are in violation of the law prohibiting smoking.
- F. Owners, operators and property managers of commercial rental properties shall not be responsible for violations of the requirements of this chapter by tenants or the guests of tenants, if they have posted signs in accordance with the provisions of this section and have given written notice to violator(s) of this chapter that the violator(s)' actions are in violation of the law prohibiting smoking.
- G. Owners, operators or managers ("owners") of commercial establishments shall not be responsible for the violations of this chapter within an area under their control, by patrons or other members of the public ("patron"), provided that: (1) the owners have posted the area with signs in accordance with this chapter; (2) have verbally asked the patron not to smoke; and (3) have warned the patron that his/her actions may be a violation of the law prohibiting smoking. This limitation shall not limit the liability of an employer for the actions of employees in places of employment.

- H. Notwithstanding any other provision of this chapter, a private citizen may bring legal and/or equitable action to enforce this chapter. (Ord. 129.1 § 2 (part), 1994)

8.20.090 - Violations—Penalties.

- A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises or establishment or property subject to regulation under this chapter to fail to comply with any of its provisions.
- B. It is unlawful for any person to smoke in any area where smoking is prohibited under this chapter.
- C. Infractions. Any person, owner, operator, employer, employee or manager of any premise(s) or establishment, subject to this chapter, who violates any provision of this chapter, shall be deemed guilty of an infraction, punishable by:
1. A fine not exceeding one hundred dollars for a first violation of this chapter;
 2. A fine not exceeding two hundred dollars for a second violation of this chapter within one year;
 3. A fine not exceeding five hundred dollars for a third violation of this chapter within one year.
- D. Misdemeanor(s). Any person, owner, operator, employer or manager of any establishment, subject to this chapter, who violates any provision of this chapter, in excess of three violations within one year, shall be deemed guilty of a misdemeanor. Upon conviction of a misdemeanor violation of this chapter, a person shall be subject to payment of a fine not to exceed one thousand dollars and shall be subject to incarceration in the county jail for a period not to exceed six months. (Government Code Section 36901.)
- E. Each day that a violation continues shall constitute a separate violation of this chapter. (Ord. 129.1 § 2 (part), 1994)

8.20.100 - Nonretaliation.

No person or employer shall discharge, refuse to hire on, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a tobacco smoke-free work environment afforded by this chapter. (Ord. 129.1 § 2 (part), 1994)

8.20.110 - Public education.

The city manager, or his/her designee, shall make information available to explain and clarify the purposes and requirements of this chapter to persons affected by it, and to guide owners, operators, managers and employers in their compliance with it. Such a program may include publication of a brochure for affected persons explaining the provisions of this chapter or use of other organizations or agents who disseminate information regarding smoking. (Ord. 129.1 § 2 (part), 1994)

8.20.120 - Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 129.1 § 2 (part), 1994)

ORDINANCE NO. 129.2

AN ORDINANCE OF THE CITY OF SCOTTS VALLEY AMENDING CHAPTERS 8.20 AND 8.25 OF THE CITY OF SCOTTS VALLEY MUNICIPAL CODE TO REGULATE ELECTRONIC CIGARETTES

BE IT ORDAINED BY THE CITY OF SCOTTS VALLEY, as follows:

SECTION 1. Title 8, Chapter 8.20, Section 8.20.010 of the Scotts Valley Municipal is amended to read as follows:

"8.20.010 FINDINGS AND PURPOSE.

(a) The City Council of the City of Scotts Valley does hereby find that:

(1) In January, 1993, the United States Environmental Protection ("EPA") released its Report, "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders." Simultaneously, the EPA designated passive smoking a "Class A" or known human carcinogen. The EPA has determined that Environmental Tobacco Smoke ("ETS") is a human lung carcinogen.

(2) The Surgeon General labels smoking "the largest single preventable cause of death and disability for the U.S. population." The Surgeon General has determined that tobacco smoke is a carcinogen and an important risk factor for heart disease.

(3) The National Institute for Occupational Safety and Health ("NIOSH") has determined that ETS is potentially carcinogenic to occupationally exposed workers.

(4) While all members of the population are at increased risk due to exposure to ETS, it constitutes a special health hazard for children, the elderly, and people with chronic lung disorders and disease.

(5) The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.

(6) ETS is an offensive annoyance and irritant to non-smokers, and can result in serious and significant physical discomfort, thus constituting a public nuisance in public places and places of employment.

(7) There are numerous and credible health studies suggesting that electronic cigarettes pose significant public health and safety risks and there are minimal federal and state regulations or controls over the use of electronic cigarettes.

(b) Accordingly, the City Council finds and declares that the purposes of this Chapter are:

(1) To protect public health, safety and general welfare by restricting tobacco and electronic cigarette smoking in public places and in places of employment; and

(2) To recognize that the need to breathe tobacco smoke-free air has priority over the desire to smoke."

SECTION 2. Title 8, Chapter 8.20, Section 8.20.020 of the Scotts Valley Municipal Code is hereby amended to amend the definition of smoking and to add a definition for electronic cigarettes to read as follows:

"Electronic Cigarettes" mean any electronically or battery-operated device, often shaped like a cigarette, containing a nicotine or other substance based liquid, sometimes flavored, that is vaporized and inhaled and which is used to simulate the experience of smoking tobacco or other combustible substances.

"Smoking" means inhaling, exhaling, burning or carrying any lighted or operating cigar, cigarette, electronic cigarette, weed, plant or other combustible or vaporized substance in any manner or in any form."

SECTION 3. The title of Chapter 8.25 is hereby amended as follows:

**"Chapter 8.25 - REGULATION OF TOBACCO AND ELECTRONIC CIGARETTES
ADVERTISING AND SALES"**

SECTION 4. Title 8, Chapter 8.25, Section 8.25.010 is hereby amended to read as follows:

"8.25.010-Purpose.

The purpose of this chapter is to promote the welfare of minors by discouraging the commercial exploitation of potential underage tobacco and electronic cigarette users and by discouraging actions that promote the unlawful sale of tobacco and electronic cigarette products to minors as well as the unlawful purchase or possession of tobacco and electronic cigarette products by minors."

SECTION 5. Title 8, Chapter 8.25, Section 8.25.020 is hereby amended to add the definition of "Electronic cigarettes" and to amend the definition of "Retail tobacco store" and "Self-Service display" to read as follows:

H. "Retail tobacco store" means a retail store where at least fifty percent of the annual gross receipts are from the sale of tobacco and/or electronic cigarette products and smoking accessories and in which the sale of other products is merely incidental.

F. "Self-service display" means an open display of tobacco or electronic cigarette products which is accessible without the intervention of a vendor, including, but not limited to a rack, shelf, or counter-top display.

L. "Electronic Cigarettes" mean any electronically or battery-operated device, often shaped like a cigarette, containing a nicotine or other substance based liquid, sometimes flavored, that is vaporized and inhaled and which is used to simulate the experience of smoking tobacco or other combustible substances."

SECTION 6. Title 8, Chapter 8.25, Section 8.25.030 is hereby amended to read as follows:

“8.25.030- Restrictions on tobacco and electronic cigarette sales and advertising.

A. No Retail tobacco store shall be located within five hundred (500) feet of any existing public kindergarten, elementary, middle, or junior high or high school or any Private school in the City of Scotts Valley.

B. No part of this chapter shall be construed to permit any advertising display that is otherwise restricted or prohibited by law. Nor shall it be construed to permit an otherwise restricted or prohibited advertising display because it is combined with a permitted public service message.

C. No part of this Chapter shall be construed to regulate messages that do not propose a commercial transaction.”

SECTION 7. Title 8, Chapter 8.25, Section 8.25.070 is hereby amended to read as follows:

“8.25.070 Restrictions on self-service sale of tobacco products.

Except for Retail tobacco stores, it is unlawful to sell, permit to be sold, or offer for sale any tobacco or electronic cigarette product by means of self-service merchandising, or by any means other than a vendor- assisted sale.”

SECTION 8. SAVINGS CLAUSE. The changes provided for in this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this Ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Ordinance.

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 10. REPEALS CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 11. CEQA COMPLIANCE. The City Council finds and determines that the enactment of this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA;" Cal. Pub. Res. Code §§ 21000 et seq.) and the State CEQA Guidelines (Cal. Code of Regs., Title 14, §§ 15000 et seq.), pursuant to section 15061(b) of the State CEQA Guidelines, where it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment.

SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect thirty days after the date of its adoption. Prior to the expiration of fifteen days from the date of adoption, this Ordinance shall be published in at least three (3) public places.

This ordinance was introduced on the 2nd day of April, 2014, and was passed and adopted by the City Council of the City of Scotts Valley on the 16th day of April, 2014, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Jim Reed, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney